SUPREME COURT, U. S.

Supplemental
TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1958

No. 5

HOTEL EMPLOYEES UNION, LOCAL NO. 255, ET AL., PETITIONERS,

vs.

SAX ENTERPRISES, INC.; LEEVLANS CORPORATION; R. S. LEVY, DANIEL LIFTER AND J. S. LANSBURGH, AS TRUSTEE; ET AL.

No. 6

HOTEL EMPLOYEES UNION, LOCAL NO. 255, ET AL., PETITIONERS,

vs.

HARRY LEVY, ET AL., DOING BUSINESS AS SHERRY FRONTENAC HOTEL, STUYVESANT CORPORATION, ABE ALLENBERG, ET AL.

ON WRITS OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

NO. 5 PETITION FOR CERTIORARI FILED AUGUST 12, 1957
NO. 6 PETITION FOR CERTIORARI FILED AUGUST 12, 1957
CERTIORARI GRANTED DECEMBER 16, 1957

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[fol. 18] Mr. Gramling: So far as the evidence may be applicable in all nine cases, why, we concur. We do feel, however, that we raised a question where a group of jurors who sit and listen to testimony involving alleged acts that have no bearing whatsoever upon the case pending before that particular chancellor, and we feel that so far as that is concerned, in fairness to our clients, that perhaps each chancellor should hear, separately, that portion of the testimony which pertains only to his case, otherwise the result is that each chancellor is not going to listen to that which is none of his business; but, secondly, he is going to have a cumulative effect of whatever allegations are made by opposing counsel.

We feel, of course, there is nothing for us to hide in the matter, and we do not mind your listening to that which pertains to other cases, but we would, frankly, for the record, like to reserve that point.

Judge Carroll: I understand, when this hearing was arranged, it was agreed that the judges would sit here as a matter of convenience, so we would not have to go through——

Mr. Gramling: That is on Mr. Sibley's assertion, and that probably, as I have heard it quoted, about 97 per cent of this is all going to be in common throughout the nine cases; is that correct?

[fol. 19] Mr. Sibley: I do not recall saying 97 per cent, but a large percentage of the evidence will be applicable to all the cases; not only that, but we think that there will be a legal question involved in which it may be determined that all the evidence is applicable to all the cases, but I think you are entitled to reserve a point on that.

Judge Carroll: Mr. Gramling, I think the judges will be able to keep separate the evidence as to the separate cases. Do you have an objection to that?

Mr. Gramling: Bear with me a moment. Sir, we would request, in the matter, only that opposing counsel announce and make it specific and clear what testimony he is producing or endeavoring to produce, which applies to only one hotel, and then make it quite specific as to which one of the nine hotels he is referring to.

Judge Carroll: I think it is possible to do that. We are here and it will be general to the extent that it is general; and to the extent that it may be specific, relating to only one case, it will be designated as such. Can you do that?

Mr. Sibley: It is agreeable.

Judge Carroll: Does counsel want to make an opening statement as to what the situation is?

Mr. Warren: May it please your Honor, before making an opening statement, on behalf of the defendant and cer-
[fol. 20] tain would-be intervenors, we respectfully request permission to file and to argue two motions and one petition—one of the motions being a motion to strike; and another motion being a motion to join additional parties-defendant; and the petition being a petition for leave to intervene.

If Your Honors will permit the filing of those two motions and the petition, we respectfully request permission to argue the motions and the petition before we make an opening statement, if it please the Court.

Judge Carroll: Well, in what case is that?

Mr. Warren: They are in all cases.

Judge Carroll: Who are you seeking to intervene for?

Mr. Warren: Individual former employees that we are seeking to intervene, of some of the plaintiffs.

They feel, as is set out, Your Honor, that their rights will have to be preserved by being individual parties to this suit.

Judge Carroll: They want to intervene as defendants?

Mr. Warren: Yes, sir; that is right, and then we seek, in a further petition, to bring the Miami Beach Hotel Association in as a defendant, too, for reason set out in the petition.

Judge Carroll: Any objection?

[fol. 21] Mr. Sibley: I object, Your Honor, to making the Miami Beach Hotel Owners Association a party to this suit, because I do not see that they have any interest in the litigation. If they want to make themselves defendants in the suit, they say the Miami Beach Hotel Owners Association is aiding the plaintiffs in procuring help after the strike has been called by the Union, and I do not see where the Miami Beach Hotel Owners Association in any

wise should become a party-defendant to the cause. We seek no relief from them.

Mr. Warren: Your Honors, I believe the petition goes a little further than that. Would you hear from Mr. Gramling on it, if you please.

Judge Carroll: I think what we will do is, we will reserve ruling on these, and we will proceed, and let it be filed, and reserve ruling on them.

If you wish to address the Court on behalf of the intervenors, you can do so, but I think, maybe, the main counsel shall proceed, first.

Mr. Warren: May I say this, Your Honor. We would be embarrassed and handicapped and, I believe, prejudiced if we were required to go into the main issues without having had the motion to strike determined.

So, if Your Honors would permit us to dispose of that at this time and reserve ruling on the other, I do not think it would prejudice or handicap us to any great extent; but if we might get that disposed of, I believe it would put us [fol. 22] in a much better position to make a proper defense of this matter, because, as the complaint now stands, it has matter in there that puts us at a disadvantage unless it is stricken, and we earnestly feel, Your Honors, that it should be stricken.

I do not want to argue the point at this time, but some of it is so derogatory and demagogic and degrading, that it might be tolerated in a political campaign, but it does not belong in a Court of conscience, and the language in there appears to be deliberately inflammatory; and I say that, in spite of the fact that I have very high personal regard for Colonel Sibley and all of his partners, and a high professional regard for him; but this complaint they filed, may it please Your Honors, reeks with language that ought not be directed at a civil defendant.

If you found it in a criminal indictment, it might be subject to a motion to strike, but it has language in it that ought to go out, if I may say so, without arguing the merits, Your Honor.

It charges them with being—these defendants, some of the people, with being "carpet-baggers". That is an inflammatory word—a word that has no place here. It is an epithet.

(Informal discussion off the record.)

[fol. 23] Judge Carroll: I hate to interrupt you, Governor, but this motion that you are presenting is on behalf of intervenors. I think it is appropriate for you to make it, perhaps, at some other time.

This hearing was set for application for a preliminary injunction, and as an intervenor, your position must be subordinate to the main case.

We have these people here, and the matter is set, and we are going to take your motion under advisement, and you will have an opportunity to argue it later, but we are going to proceed, and let the plaintiff proceed with his application for injunction without——

Mr. Warren: If you pardon me, I believe I didn't make my position clear. The motion to strike is not on behalf of intervenors. It is on behalf of the named defendant—the defendant.

Judge Carroll: I thought the intervenors——

Mr. Warren: No, sir; it is on behalf of the defendants who were brought into Court. I want to make that plain, by persons who are here today, and have to defend themselves. That motion is on their behalf. The other matters——

Judge Carroll: I do not think the motion goes to the sufficiency of the suit. I think the proceedings—we have a limited time, and we want to get this matter heard, and I suggest that plaintiff's counsel proceed with his statement.

[fol. 24] Mr. Gramling: If Your Honors please, would you be so patient a moment, please, sirs, just a scanning of your paragraph No. 4, in each one of the cases, would show you that in no fashion should we be put to proof to any of the allegations therein contained.

The entire thing is, as he stated, demagogic; nothing to which we should respond or be charged with.

Also, for the purpose of this hearing, a portion of it—pardon me, sir—a portion of paragraph 2, everything following the first sentence, has no bearing on the issues of this case.

And now, sir, if you will direct your attention also to paragraph No. 6, on page 6 of the complaint, you will find a portion that says this:

"That this conduct of the defendant union is unlawful and is contrary to the constitution and laws of the State of Florida in that the said defendant union has never been certified to the plaintiffs that it is the lawful bargaining agent of the plaintiffs' employees."

Now, gentlemen, there is no law in the sovereign State of Florida bearing upon that point or requiring such certification or even providing for certification.

We are charged with unlawful picketing, because we did not do that for which there is no requirement in law. We feel that should be deleted. At least, as we proceed with [fol. 25] the trial, we find ourselves attempting to prove or disprove a point that is absolutely inconsequential.

Judge Carroll: Mr. Gramling, the ruling is the same as to you. We will defer ruling on that and reserve ruling on it and let the plaintiff proceed.

Mr. Sibley, we will hear from you.

(Mr. Sibley thereupon made an opening statement to the Court.)

(Thereupon Mr. Brown made an opening statement to the Court.)

Judge Carroll: We will proceed on the basis outlined by the Court.

Mr. Sibley: All right. Mr. J. W. Brown, will you take the stand, please.

Thereupon—J. W. Brown was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your full name, sir.

A. J. W. Brown.

Q. Where do you reside?

A. I reside in Cincinnati, Ohio.

[fol. 26] Q. Are you General Counsel for an international union?

A. Yes, I am. I am General Counsel for the Hotel and Restaurant Employees and Bartenders International Union.

Q. Local 255 is part of that Union, of that International?

A. Yes, it is.

Q. Who is the president of that Union?

A. Mr. Ed S. Miller.

Mr. Gramling: Is that of the International, or of 255?

Mr. Sibley: I asked him if Local 255 was a part of the International, and he said it was.

Judge Carroll: Mr. Sibley, what do you purpose (sic) to show by this witness that has a bearing on your application for injunction?

Mr. Sibley: If Your Honors please, I am going to hand him something right now that I think has something to do with it.

Mr. Warren: Your Honor, we suggest he ought to make a disclosure of it. If it is a communication between attorney and client, it is privileged.

Judge Carroll: What I have in mind is this, Mr. Sibley. I do not think we should go into all of the background and [fol. 27] issues on this case.

Mr. Sibley: Your Honor, I have not the slightest intention of doing that, but I had to get my preliminary questions in order to proceed with my proof.

Judge Carroll: Go ahead, Mr. Sibley.

By Mr. Sibley:

Q. Mr. Brown, did Mr. Miller cause this advertisement to appear in the Cincinnati paper, did he not?

A. I would not have the slightest idea.

Q. He did not submit to you that advertisement in the Cincinnati Inquirer?

A. No; he did not.

Mr. Gramling: I object to this line of questioning as to whether or not a client of his ever contacted him and solicited his professional opinion.

Judge Carroll: Objection overruled.

Mr. Sibley: We ask that it be marked for identification, if Your Honors please.

Judge Carroll: Are you offering it in evidence, or just for identification?

Mr. Sibley: The witness said he does not know anything about it, so I suppose, under those circumstances, it will have to be marked for identification.

[fol. 28] The Clerk: Plaintiff's Exhibit 1-A for identification.

(The document referred to was thereupon marked Plaintiff's Exhibit 1-A for identification.)

By Mr. Sibley:

Q. Mr. Brown, do you know anything about this advertisement that appeared in the St. Louis paper, in reference to a Miami Beach Hotel?

Mr. Warren: We object to that as too general and too vague and too indefinite.

Judge Carroll: Overruled.

The Witness: I have no knowledge of this, and I have never seen it before.

Mr. Sibley: Mark it for identification.

The Clerk: Plaintiff's Exhibit 1-B for identification.

(The document referred to was thereupon marked Plaintiff's Exhibit 1-B for identification.)

By Mr. Sibley:

Q. Edward S. Miller is the general president of the International?

A. Yes.

Q. And the name of the International is the International Hotel Restaurant Employees and Bartenders International Union, A.F. of L.?

A. That is correct.

Mr. Sibley: That is all, Mr. Brown.

Judge Carroll: Any cross examination?

[fol. 29] Mr. Warren: No, sir.

Mr. Gramling: No cross.

(Witness excused.)

Mr. Sibley: Mr. David Herman will be the next witness. We are calling him under Rule 1.37.

Thereupon—DAVID HERMAN was called as a witness on behalf of the plaintiffs, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. State your name——

Mr. Gramling: Pardon me a second. Because of the circumstances of this witness being literally on cross examination, I request your Honor to instruct this witness, that in case he is asked a question, after giving a specific answer, that if he feels it is necessary, that he will be accorded the courtesy of explaining his answer. May the witness be so instructed.

Judge Floyd: He has that right.

Mr. Gramling: He may not know it.

Judge Cannon: He knows it.

Judge Carroll: You instruct him.

By Mr. Sibley:

Q. Please state your full name.

[fol. 30] A. My name is David Herman.

Q. Where do you reside, Mr. Herman?

A. At the moment?

Q. No; I mean, where is your residence; where do you live? Where is your legal residence?

A. Well, I have a residence here on Miami Beach, and I have a residence in Long Island City, New York.

Q. How long have you been a resident of Miami Beach?

Mr. Warren: Your Honor, I object to that. It makes no difference how long or how short he has been here.

Mr. Sibley: I concede that. I am only trying to get some preliminary questions.

Mr. Warren: I object to this melodramatic and theatrical display.

Judge Carroll: Overruled.

By Mr. Sibley:

Q. Will you tell us how long you have been a resident?

A. I lived here since around the latter part of January, about January of 1955.

Q. And you are the president of a union in New York; is that correct?

A. Yes. I am the president on leave of absence of Local 6, Hotel and Club Employees Union in New York.

[fol. 31] Q. Is the name of your union the Hotel and Club Employees Union No. 6, A.F. of L.?

A. Yes.

Q. Is your union, in New York, a part of the Hotel and Restaurant Employees and Bartenders International Union, A.F. of L.?

A. Yes, sir. It is one of the 800 local unions.

Q. I believe you say you are now on leave from your union.

A. Yes, sir.

Q. Who sent you here, sir, if anyone?

A. I do not think "sent" is the word. I was asked if I would like to come down here.

Q. By whom, sir?

A. By the hotel employees of Miami Beach, and by my international president, and by some of my associates in New York.

Q. Mr. Miller is the president of your International?

A. Among others; he suggested it, yes, sir.

Q. Do you keep a file of publicity in several papers in the United States, with reference to the Miami Beach difficulties at the present time?

A. I have received some clippings from out of town papers. I do not think that I have a file. I have two or [fol. 32] three clippings from two or three out of town newspapers.

Q. Did you see this one, sir, from the St. Louis Globe?

A. No, sir; I did not.

Q. Did you see this one, sir, from the Cincinnati paper?

A. No, sir; I did not.

Q. Were you sent clippings from your own local in New York?

A. Yes, sir. I have seen the ones in the New York Times and the World Telegram.

Q. Those are advertisements that your local—the one you are president of, carried in connection with the dispute on Miami Beach; is that correct?

A. Well, technically not; but generally you are correct; because, technically, they were placed by the New York Hotel Trade Council, and I think in one case by Local 6; yes.

Q. In one case, your local?

A. I think so; yes, sir.

Q. Aren't they influencing the public up there, even though——

Mr. Gramling: Your Honors, I object, now, to this line of questioning, because you have ruled that you want to hear something that has some direct bearing on whether [fol. 33] or not Mr. Sibley is entitled to an injunction.

I cannot, for the life of me, see what advertisements all over the United States of America have to do—otherwise we are going to come and ask you to please look at some advertisements the hotel owners have been putting in all over the United States and Canada. What bearing does that have?

Mr. Sibley: If my friend will consent to the two to go in that I have proffered, the Court will immediately see the purpose.

Judge Carroll: If not, you can move to strike it.

Mr. Warren: I object to it, on the further ground that no predicate is laid for it in the complaint, Your Honor; and on the further ground that it appears to be a subtle and also a sneak attack upon advertisements, themselves.

Judge Carroll: Overruled.

By Mr. Sibley:

Q. Is this the advertisement that your union, of which you are president, put in the New York paper?

A. It would seem to say so, yes, sir. I was not there. I do not know if this was.

[fol. 34] Q. You received a copy, I believe you said.

A. I have seen it, and I have got a copy. This is in the World Telegram and the Sun of Friday, April 22nd. It

bears the name and the signature of some of the officers of my local union, and I have no reason to doubt that they did that up there while I was down here.

Q. They sent you a copy of it?

A. No; they did not. Somebody else sent me a copy. It came anonymously in the mail.

OFFERS IN EVIDENCE

Mr. Sibley: We tender in evidence the advertisement that has been identified by the witness, and ask that it be marked. I tender it as Plaintiff's Exhibit No. 1 in each of the nine cases.

Mr. Brown: We object.

Mr. Warren: Your Honor, we object on these grounds severally and on general grounds:

1—it has not been proved that anybody named as a defendant here had any part in presenting that advertisement; and

2—it is not shown that the advertisement in any way could have caused any injury that they allege in the complaint; and

3—advertising is one of the most recognized and acknowledged forms of expression of free speech and guaranteed [fol. 35] by the Constitution; and

4—it occurred completely beyond the jurisdiction of this Court; and even if the advertising, which I have not seen, was of inflammatory nature as portions of plaintiff's complaint are, it could not necessarily and logically have caused any damage to the plaintiffs down here.

It might be that a reading of it might change that position, but I wish to offer those specific objections.

Judge Carroll: Objection overruled. File it.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 1.)

By Mr. Sibley:

Q. Sir, are you a member of or affiliated with the New York Hotel Trades Council, A.F. of L.?

A. Yes, sir.

Q. What is your position with the New York Hotel Trades Council?

A. I occupy the position of one of ten vice presidents, and by virtue of my membership in Local No. 6, I am also a member of the New York Hotel Trades Council. It is the collective bargaining agency for ten local unions in [fol. 36] New York City.

Q. Is the collective bargaining agent for your local No. 6?

A. With the hotels, yes, sir; with the clubs, no, sir.

Q. And it is an A.F. of L. instrumentality or affiliate of some kind?

A. It is a central body of A.F. of L. unions, belonging to nine different international organizations—nationally and internationally.

Q. I believe you said you saw, in the New York Times, the advertisement that was being run by——

A. Yes.

Q. That is the one that you have seen?

A. Either this one or one like it, generally. That was about the contents.

Mr. Sibley: We tender in evidence the issue of the New York Times, April 20th, advertising identified by the witness.

Mr. Warren: We object to that, on the grounds that it is not properly certified, Your Honor.

If you will hear me on that, I would appreciate it very much. He seeks to put into evidence an uncertified piece of printing here. As I understand it, the laws of Florida re- [fol. 37] quire that when you produce even a legal document, a document of record from another state, you must have it certified, and then you must have some officer certify that the certifier is qualified to certify.

I believe that is the procedure in introducing into evidence foreign documents Counsel, himself, claims that these documents come from another jurisdiction. I do not like that word. No place in the United States is foreign, in my conception.

(Off the record.)

The Court: Counsel is correct in his statement as to the rule relating to documents where the question of authenticity of a document is involved.

In view, however, of the witness' statement that this is what appeared, objection overruled and it will be filed.

The Clerk: Plaintiff's Exhibit No. 2.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 2.)

By Mr. Sibley:

Q. Mr. Herman, did you have or did you supervise the insertion of this statement in the two Miami papers, the Miami Herald and the Miami Daily News and the Miami Beach Sun?

[fol. 38] A. Yes, sir.

Q. And that is the advertisement that your local union here put in, Local No. 255?

A. This, sir, is a reprint of two telegrams that our local union received from the office, President George Meany of the American Federation of Labor and President Walter Reuther of the C.I.O., and we caused them to be publicized to the general public as a matter of public information.

Mr. Sibley: We tender in evidence as——

Mr. Warren: May we examine it, Your Honor?

Mr. Sibley: We tender it in evidence as Plaintiff's Exhibit No. 3.

Mr. Warren: Your Honor, we would like the privilege of joining counsel for the plaintiff in the motion that this be admitted as evidence.

Judge Carroll: All right.

Mr. Sibley: Will you join me with the other two?

Mr. Warren: No, sir; we regard those as possibly spurious.

The Clerk: Plaintiff's Exhibit No. 3.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 3.)

By Mr. Sibley:

Q. Did anybody send you a copy of the advertisement,

[fol. 39] under the name of the Los Angeles Joint Executive Board of the Hotel, Restaurant Employees A.F. of L. appearing in the Los Angeles Examiner of April 21, 1955; did you get that one?

A. Mr. Sibley, except for the date, I am not sure whether it was of that date, but I do recall receiving a copy of the Los Angeles Examiner, and I cannot testify truthfully, and answer truthfully, yes, to your question. If you insist on including the date—if you will omit the date, I will answer, yes.

Q. Do you know whether or not it appeared in the Los Angeles Examiner?

A. Yes; it was from the Los Angeles Examiner, but I am not certain as to the date. It might have been a different date.

Q. Excluding the date, is that the advertisement that you received?

A. Approximately, yes. I would say that is approximately. It may have been language—it might have been somewhat different—there might have been fewer hotels at the time, or more hotels. I see this is limited to seven hotels. It might have been, maybe, eight or maybe six. I do not think that—I have a copy here.

Q. Let me ask you this: who was supplying these people, in Los Angeles and New York, with the number of hotels [fol. 40] then, as they say are on strike; were you furnishing that information to them?

A. I was the one who was furnishing the information, and every time the newspapers called me up and asked me how many people—how many hotels are on—blah—blah—blah—and I give them the statements as I knew. I suppose the newspaper men then passed it on to the other A.P. and U.P., and I.N.S. and other services, and that is how it got to where it was.

Q. Did you furnish to your affiliates in New York and Cincinnati, from day to day, the number of hotels you then had picket lines?

Mr. Gramling: If Your Honors please, I object to that question. What a member of a union may report to his own union is a privileged communication that would have no

bearing whatsoever on whether or not Mr. Sibley is entitled to an injunction.

In other words, suppose he went to a meeting and made a report to the meeting—what does that have to do with Mr. Sibley's right to an injunction?

Judge Carroll: Has he answered the last question? Objection overruled.

Mr. Sibley: Answer the question.

[fol. 41] The Witness: Repeat the question.

By Mr. Sibley:

Q. The question is——

Judge Cannon: Let the Reporter read the question.

(Thereupon the question was read as follows:

"Q. Did you furnish to your affiliates in New York and Cincinnati, from day to day, the number of hotels you then had picket lines?"

The Witness: No, I would not say that I furnished it from day to day. I would say that they called me up, occasionally, and they wanted to know how things are going and how many hotels are being picketed, and I would give them the information as it prevailed at that time.

By Mr. Sibley:

Q. Did you supply them with the information?

A. Yes, I did answer their questions to the best of my ability.

Mr. Sibley: We tender in evidence the advertisement that the witness identified, and ask that it be marked in evidence as Plaintiff's Exhibit No. 4.

Mr. Warren: We object to it on all the previous grounds stated, and ask to be excused from repeating the previous [fol. 42] argument in support of the grounds; but I wish to offer this additional comment, if the Court will permit me, and that is that the persons presumably who caused this ad to be published, are not within the jurisdiction of this Court and, certainly, are not before the Court, and not

subject to this Court's order; and the Court, as far as anything that appears here, would have no power to restrain their acts, and it is just dealing with something that is almost beside the point, as far as this proceeding is concerned.

Judge Carroll: Objection overruled.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 4.)

By Mr. Sibley:

Q. Mr. Herman, are you familiar with this article quoting you of the Miami Daily News of Sunday, April 24, 1955, under the by-line of Mr. Haines Corbett?

A. I read the article.

Q. I want to ask you if this quotation of yours is accurate——

Mr. Brown: Just a minute now, please. I object, Your Honor. I do not see the materiality of a quotation contained [fol. 43] in the newspaper of this witness who is, after all, as I understand it, Mr. Sibley's witness. It seems to be a self-serving declaration, and Mr. Sibley has called Mr. Herman, and now he is asking his own witness, "What did you say on some other occasion to the press?"

I submit, Your Honor, under the rules of——

Judge Carroll: Have you asked him whether he made the statement in there?

Mr. Sibley: I just before asked him, did he make the statement.

Judge Carroll: There is no reason to read it. Let him see it.

Mr. Warren: Your Honor, I would like to interpose this further objection, that you cannot cross examine your own witness, unless he has been determined to be hostile, and this witness appears to be very friendly.

By Mr. Sibley:

Q. Did you make that statement I point to here?

Mr. Sibley: Can I read it for the record?

Mr. Brown: We object to it being read. The Court in-

structed the witness to examine it to see if he made the statement.

Mr. Warren: It is the fair way to proceed that way.

[fol. 44] Judge Carroll: Wait a minute. Did you ask him if that was his statement?

Mr. Sibley: I am going to read what——

Judge Carroll: Do not read it.

Mr. Sibley: And then ask him whether——

Judge Carroll: We are trying to avoid reading it into the record.

Mr. Sibley: Then there will be no way for me to complete the record, otherwise. I have him on cross examination, and he is an adverse witness under Rule 1.37, and my friend here from Cincinnati does not know that we can call adverse witnesses, especially an agent——

Mr. Warren: May I respectively (sic) ask that Mr. Sibley proceed in accordance with Your Honor's ruling. If he denies it, he can get it in the record.

Judge Carroll: I will change the ruling. Ask him the question and read it to him.

Mr. Sibley: All right, sir.

By Mr. Sibley:

Q. Did you make this statement to Mr. Haines Corbett?

> "I am not interested in working conditions. I am not a humanitarian. I do not work under the conditions [fol. 45] of hotel employees at Miami Beach."

A. I did not.

Q. You did not make that statement?

A. No, sir. Shall I tell you what statement I did make?

Q. I am not interested in that.

Mr. Warren: We insist that his right—that he be heard on that. Do not cut him off.

Judge Carroll: Overruled. You can bring it out later, if you care to.

By Mr. Sibley:

Q. Are you familiar, sir, with this article that appeared

in the Miami Herald, on April 25th, under the by-line of Mr. Bryan Donaldson?

A. Generally, yes. I read the article.

Q. Now, Mr. Donaldson attributes this statement to you, and I want to know whether or not you made this statement to him——

Mr. Brown: I object. He has shown him the statement, and he said he did not. Well, he has said that he read the statement. Now, I do not think it is necessary for counsel to read it as to the Court.

Judge Carroll: Objection overruled.

By Mr. Sibley:

Q. (Reading) "If any restraining orders are granted, it will not make any difference." Did you make any state-
[fol. 46] ment such as that to him?

A. No, sir.

Q. (Reading) And did you make this statement—"if an injunction is granted, the picketing will continue as usual."

A. No, sir. I will tell you what I did say to him.

Q. I am not interested.

Mr. Warren: Your Honor—would Your Honor permit him to explain it, so it will go as a part of the context of his testimony, and it will be contemporaneous with it and not isolated from it far down from the record there?

It is customary to let a witness, I believe, at the time, ordinarily, to explain his answer at the time and not later on.

If Your Honors will permit him to explain this, because I happened to discuss this with him and I know the explanation that he can give.

I say to you, very earnestly, as a member of the Court and conscious of my responsibilities, that if you permit this to come in at this time, it would make this thing more understandable, in my humble belief.

Judge Carroll: Overruled; but that is without prejudice
[fol. 47] to your bringing out the matters, if it is material.

By Mr. Sibley:

Q. Mr. Herman, did you, in your local, have this hand bill printed and distributed?

A. Yes, sir.

Mr. Sibley: We tender in evidence the hand bill identified by the witness, and ask that it be marked in evidence as Plaintiff's Exhibit No. 5.

Mr. Warren: No objection—Your Honor, I wish to introduce this further objection, that the line of questioning that Mr. Sibley is carrying on here is not in accordance with Your Honor's ruling or directive, in which I understood you to outline the limit of the corridor within which he could proceed in this hearing here today.

He has gone so far afield from it, I thought he was talking about another case.

Judge Carroll: We outlined what we thought was the material matter to go into, and I asked counsel earlier, when he started the testimony, that if he recalled that, and I assumed he is trying to keep within it, and it is his case, and we are doing that in the interests of conserving time [fol. 48] and trying to expedite the matter to a conclusion.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 5.)

By Mr. Sibley:

Q. Mr. Herman, did your Local No. 255 have this hand bill printed and distributed?

A. Yes, sir.

Mr. Sibley: We tender in evidence the hand bill identified by the witness, and ask to have it marked in evidence.

Mr. Warren: No objection.

Mr. Sibley: And have it marked in evidence as No. 6 for the Plaintiff.

Mr. Warren: No objection to Exhibit No. 6.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 6 in evidence.)

By Mr. Sibley:

Q. Mr. Herman, did your local 255 have this hand bill printed and distributed?

A. Yes, sir.

Mr. Sibley: We tender in evidence the hand bill identified by the witness and ask that it be marked Plaintiff's Exhibit No. 7.

Mr. Warren: No objection, Your Honor, but respectfully ask the Court if it will not request Mr. Sibley to state what part of his complaint this is designed to prove. What is the [fol. 49] purpose of it?

Mr. Sibley: If you read my complaint, sir, and if you read the hand bills which you have not done yet, you will see it very clearly.

Judge Carroll: Mark it.

(The document just referred to was thereupon marked Plaintiff's Exhibit No. 7.)

By Mr. Sibley:

Q. Mr. Herman, do you know a gentleman named Nicholas Campas?

A. No, sir; I do not.

Q. Nicholas Campas, who is the business manager for the Hotel and Restaurant Employees Local Union 583, Troy, New York?

A. Campas—Nicholas Campas, that is.

Q. That is what I asked you.

A. Yes; I do.

Q. Do you know him?

A. Yes; I do.

Q. Do you know, sir, Jack Davis?

A. Yes; I do.

Q. Are you familiar with the testimony that those two gentlemen gave concerning you before the Un-American Activities Committee of the House of Congress?

Mr. Brown: Now, Your Honor, I object to counsel trying to impeach his own witness, and I ask, how this type [fol. 50] of questioning could be pertinent to this hearing, as Your Honor has limited the evidence at the outset.

Mr. Warren: I will object to it, on the further ground, that whether it is tendered as such, or the effect of it is to try to smear—and "smear" is not good anywhere—if he has been convicted of any crime, I invite Colonel Sibley to ask him that.

But this circuitous, devious, round about, twisted way of trying to smear him by showing this isolated instance—and I might say, I was smeared by committees, myself, but I do not admit the truth of any of the "crap"—I mean the truth—I did not mean to say that.

He ought not to try to smear this fellow and degrade him in that manner, I do not believe, and I hope Colonel Sibley will reconsider——

Judge Carroll: Let us have the question read back.

(The last question was thereupon read by the Reporter as follows:

"Q. Are you familiar with the testimony that those two gentlemen gave concerning you before the Un-American Activities Committee of the House of Con-[fol. 51] gress?"

Judge Carroll: Objection sustained.

By Mr. Sibley:

Q. Have you been a Communist?
A. No, sir.
Q. Or a member of the Communist Party?
A. No, sir.
Q. Did you attend the Communist Party caucuses?

Mr. Brown: Your Honor, I am going to object to all of this——

Judge Carroll: You may finish the question.

By Mr. Sibley:

Q. —continued—with Nicholas Campas?
A. Not with Nicholas Campas or anybody else.

Mr. Brown: Now, just a moment. I am going to object to this entire line of questioning, under solid legal principles that this——

Judge Cannon: Just a moment. He objected, and the answer—did you not object to the last question?

Mr. Brown: I am objecting to it.

Mr. Gramling: We now move it be stricken—the question and the answer be stricken.

Judge Carroll: We are going to grant the motion and the objection and the matter appears to be immaterial at this hearing.

[fol. 52] Mr. Sibley: Will you hear from me on the materiality, Your Honor?

Judge Carroll: Why is it material?

Mr. Sibley: I think it is material, Your Honor, in the organization of a union in this area, to get the background of the organizer.

Judge Carroll: I do not think it is necessarily material to the case, or perhaps some phase of the case, but it is immaterial to your application this afternoon.

By Mr. Sibley:

Q. Did you, as president of Local No. 6, authorize Local No. 6 to engage in any picketing in New York?

Mr. Brown: That is going pretty far afield.

The Witness: When was the picketing?

Mr. Sibley: Read it.

Mr. Brown: Just a moment, Mr. Herman, please.

Your Honor, I do not think we are here to test out picketing in New York at this time, or Chicago or Los Angeles.

I understand the picketing is in Miami, Florida. It is the issue here, and what has happened at some other time, in any other city, is of no materiality here; and since the issue has been limited to a temporary restraining order and [fol. 53] concise facts that might apply to it, then, in this entire broad field, counsel should be advised is not permissible.

Judge Carroll: Objection sustained, as it is immaterial.

Mr. Sibley: Is it immaterial, Your Honor, if in connection with this picketing, in connection with this picketing in Miami, which is now being carried on, not at the place of busness, but in New York, on the New York streets, contrary to our statute.

Mr. Brown: I think our statutes have nothing to do with picketing in New York, but the New York——

Judge Carroll: The application deals with what?

Mr. Sibley: It deals with unlawful picketing here or any place, unlawfully—unlawful conduct.

Mr. Gramling: Gentlemen, his complaint is specific, that he wants an injunction against picketing by the numbers of pickets in front of the specific hotels. In his nine respective suits, he did not tell anything about picketing in New York in his complaint.

Judge Carroll: Are you seeking to enjoin picketing elsewhere than here?

[fol. 54] Mr. Sibley: I am trying to show a pattern of unlawfulness and disregard of our statutes by this union, which I have a right to do.

This union has discarded every law in Florida. Their advertisements are different, in that they have engaged in the most fraudulent conduct, and I intend to show it.

Mr. Warren: May I respectfully suggest that Colonel Sibley is not under oath and not a witness, and what he says is a nullity, up to this point.

Mr. Gramling: If Your Honors please, we come to trial supposedly appraised of what is going to be tested out before this Court, and that is the purpose that the complaint says.

As Governor Warren just stated, there is no similarity between the line of proof and the complaint. If I were not here listening to this with my own ears and seeing it with my own eyes, I would swear we were trying a different lawsuit than what the complaint is in the Court file—all nine of them. Certain pleadings are supposed to serve some purpose.

Judge Floyd: Is there anything in the pleadings about that?

Mr. Gramling: Not a word; not one iota in the nine [fol. 55] complaints.

Judge Carroll: About outside picketing?

Mr. Sibley: There is.

Judge Carroll: Is there anything in the complaint about outside picketing?

Mr. Sibley: There is.

Mr. Gramling: I say, if there is anything in the complaint about this, then I have got the wrong carbon copies from his office.

Mr. Warren: I will say, if there is anything there, we will withdraw the objection.

Mr. Sibley: We allege that the picketing being carried on by this union is unlawful, in that the defendant has represented said picketing as being the result of a strike, and the very headlines on that is, "Strike."

Judge Crawford: You contend this is a New York picketing or advertisement in New York.

Mr. Sibley: I am going to ask him—and it is local—when I was stopped. That is what I (sic) after. He is the president of it.

Mr. Warren: Pardon me. I do not understand Mr. Herman to be president of the local. It is another gentleman listed. Pardon me.

Judge Carroll: Objection sustained at this time.

[fol. 56] Mr. Sibley: Mark these for identification, Mr. Clerk.

(Three documents just referred to were thereupon marked Plaintiff's Exhibits 1-C, 1-D and 1-E, for identification, respectively.)

Judge Carroll: We will take a ten minute recess.

(Thereupon a short recess was taken, after which the following proceedings were had.)

Mr. Sibley: Come down, Mr. Herman.

Mr. Gramling: Wait a minute. If Your Honor please, I feel it would be only proper to permit us to interrogate this witness, at least to the point of inviting him to explain certain answers he made, that were shut off.

Judge Carroll: You are entitled to cross examine him on the subject matter that he testified about.

Mr. Gramling: Thank you.

Judge Cannon: He could have been finished while you were making your speech.

Mr. Gramling: There has been no haste.

Judge Carroll: One counsel to examine.

[fol. 57] Decide which one you want.

Cross examination.

By Mr. Brown:

Q. Mr. Herman, you have been asked whether or not you had certain conversations with newspaper reporters,

and you have denied the printed version of those conversations.

Judge Carroll: The first two were for identification, and the other went into evidence.

Mr. Brown: May I have those clippings that you read from, Mr. Sibley?

Mr. Sibley: Yes.

By Mr. Brown:

Q. You were asked about a conversation with a reporter, Mr. Haines Corbett of the Miami Daily News. What was your conversation with him?

A. He asked me, among other things, specifically with reference to the questions that Mr. Sibley asked this newspaper reporter asked me, "Well, what are the issues—the economic issues and the work conditions that are involved here," and I explained to this reporter, which he either deliberately or inadvertently misunderstood.

I said, "At this present moment, there are no economic issues involved; that this, at the present moment is only a dispute over the recognition of the union. If and when the union is recognized, then we will enter into a discussion of the wages, hours and conditions of employment under [fol. 58] which these people work."

Now, at this moment, I said, "This is a principle fight on constitutional issues and not a humanitarian fight on the immediate working conditions." The way he saw fit to print it was as far away as I said as anything could possibly be.

Q. You were asked about a conversation with Mr. Bryan Donaldson, a Herald staff writer, which is purported to have been printed in the Miami Herald of April 25. Will you tell us what was the conversation with Mr. Donaldson?

A. I discussed with Mr. Donaldson, and with other reporters from time to time, the possibility of the consequences of the application for a temporary injunction, on the part of the hotels.

Newspaper reporters ask leading questions, and they asked me, "Well, now, the hotels have gone in for an injunction, and if they get their injunction, you are going to have to stop your picketing, and then they will be able to break the strike."

I said, "That may very well be if they are successful in getting the injunction to restrain Local 255, but there are so many other unions involved here, there is the Electrician's Union, Carpenter's Union, Painter's Union, Air Conditioning men—the Central Labor Union as a whole is involved, and that I would not be a bit surprised if Local 255 were to be restrained from picketing, that the other [fol. 59] unions might take up the picketing in support of their members who are also involved in this dispute." That was the nature of my discussion, more or less, in an explanation of what might happen.

I, at no time, said or meant to indicate that even if an injunction were at issue, that we would defy the order of the Court and proceed with picketing, anyway.

I said that Local 255 might be restrained from picketing, but there are other unions who might enter into this dispute and picket the hotels. That was the gist of that conversation, Mr. Brown.

Q. Mr. Herman, you were asked whether or not you were president of Local 6 of New York.

A. I am that; yes.

Q. When did you become president?

A. I became president of Local 6 in New York, in 1951—1950 or 1951—yes—I think it was either 1950 or 1951. It was immediately following the trusteeship in the Local Union.

Q. Were you elected president?

A. Yes; I was elected president.

Q. Under what circumstances?

A. Well, sometime in 1949——

Judge Carroll: How is that material for this case?

Mr. Brown: Because, your Honor, it is a very—a very serious question has been insinuated into this case by coun- [fol. 60] sel.

One question that was asked here, and that was permitted to be answered, was, "Are you a Communist," and I am endeavoring to show that not only is the answer correct, but Mr. Herman is not and never has been a Communist, but that he was elected president of Local 6 after the defeat of the Communist nucleus in New York City, and that

he led and spearheaded the fight to oust the Communists from a Local Union.

Judge Carroll: We stopped the questioning along that line. I think it is immaterial.

The Witness: Do I have a question to answer?

Judge Floyd: No.

The Witness: May I make a statement?

Judge Cannon: Let your lawyers handle it. You are a witness.

The Witness: Yes.

Judge Cannon: Then be still.

By Mr. Brown:

Q. Mr. Herman, you have been asked whether or not your local distributed leaflets in the hotels. Will you tell us why these leaflets were distributed, plaintiff's Exhibit No. 5, for example?

A. Well, sir, we had written a letter to the Hotel Association, to the executive director, to Mr. Leon McKaskill, [fol. 61] and a copy of that letter went to everyone of the members of the board of directors, including some 30 hotel owners who are operators, who were members of the board of directors.

We asked them to get in touch with us during the period of ten days following, at which time, we wanted to discuss the claim of the union to the representation of the hotel employees.

As time went along, and the Hotel Association was not answering our letters, and none of the hotel owners were making any replies, we had an idea that the hotel owners might see fit to disregard our request for a conference and provoke us into a stoppage.

So we addressed the letters to the guests in the hotels, trying to explain to them the issues as to exactly what happened; that we asked for a conference; that our request has been ignored, and there is a possibility there might be a stoppage of work in protest, on the part of the employees, to the refusal of management to acknowledge—at least acknowledge the letters of the union.

Q. Now, you were asked whether you distributed plaintiff's Exhibit No. 6, which is headed, "To all hotel employees

—sit tight—do not jump the gun." Will you explain the circumstances under which that was distributed?

A. Yes. When the picketing started—when the protest started, on the part of the several hotels where the em-[fol. 62] ployees first became involved, we were besieged by requests from other hotel employees who wanted to walk off the jobs, also, and we addressed the following leaflets to them. We said, "Sit tight—do not jump the gun. We know how you feel. We know——"

Judge Carroll: Yo do not need to read it.

The Witness: We said, "Do not walk off your job without permission from the union." And we addressed it to them in order not to create chaotic situation in the hotels of Miami Beach, where 20,000 hotel employees are involved, and about 300 hotels, and they are champing at the bit because of provocation on the part of employers to refuse to sit down and negotiate with their union.

Mr. Brown: That is all.

Mr. Sibley: Come down.

(Witness excused.)

Thereupon—George E. Fox was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.

A. George E. Fox.

Q. What is your occupation?

[fol. 63] A. I am general manager of the Saxony Hotel.

Q. How long have you held that position?

A. Two years and three months.

Q. Mr. Fox, do you know Mr. David Herman?

A. Yes, I do.

Q. Is there a picket line at the Saxony Hotel?

A. There is very much of one.

Q. When was it placed there?

A. On Wednesday morning, April 13—I believe it was about 6:00 o'clock in the morning.

Q. Prior to the placing of the picket line at that hotel—at your hotel, were you or any member or person in charge of the Saxony Hotel invited to negotiate a contract with Mr. Herman, on behalf of the Saxony Hotel?

A. We were not.

Q. What time was the picket line thrown up?

A. I received a call at—I was at home and received a call at 6:00 o'clock in the morning that there was a picket gathering in front of the hotel, and that picket was set up about 6:30, around the property.

Q. What did you see when you got there?

A. I saw quite a group of people in various corners at 32nd and 31st street, and marching with many of them had signs, and many of them were our ex-employees that were visiting with people as they got off the motor bus, and [fol. 64] telling them to go back home, or go——

Mr. Gramling: I object to his testifying as to what somebody said to somebody else, and ask that he be limited to just what he himself saw or observed or his relationship with one of the parties-defendant.

Judge Carroll: Explain to him, Mr. Sibley, that he is not to repeat what other people told him; only what he himself observed.

Mr. Sibley: I only want what you saw or heard. Did you see——

Mr. Gramling: I move that the answer to the last question be stricken.

Judge Carroll: It is stricken.

Judge Carroll: Did he hear that himself?

Mr. Gramling: He heard what some people said to some people elsewhere, unindentified, (sic) and they are not identified.

Judge Carroll: The motion is granted. You may ask it again.

By Mr. Sibley:

Q. Did you see your employees coming to work that morning, getting off the bus?

A. Yes.

Q. What would happen when they got off the bus?

A. They would be intercepted, and would—what the con-
[fol. 65] versation was, I do not know.

Q. Who were intercepted?

A. Various ex-employees.

Q. What was the effect of this picket line?

A. It very seriously affected it. There were over 340 employees that did not report for work, and, as a consequence, it drastically affected the business and still has.

Q. Did a number of your employees sit around all day, especially the women, trying to get into the hotel?

A. That is right.

Q. Will you state whether or not your hotel is now badly crippled by reason of this stoppage of work and the picket line?

A. I would say that it is.

Q. What effect has it had upon service?

A. Our food and beverage service has been drastically hurt—drastically—and our room business is a good percentage under the previous year.

Our conventions that came into the hotel, where we had rooms reserved for them, where we expected an overflow, we carried rooms due to the fact that many of them did not come down and some would not cross a picket line.

Q. Is it impossible for you to ascertain exactly how much monetary damage that you have suffered?

[fol. 66] Mr. Brown: I object to the form of the question.

Mr. Sibley: You may inquire. That is obvious.

Cross examination.

By Mr. Gramling:

Q. Mr. Fox, is your testimony that you have never had any dealings whatsoever—no conversations with Mr. Dave Herman, or any spokesman on behalf of Local 255, prior to the stoppage of work?

A. In what regard, sir?

Q. Have you had any?

A. Yes. I met Mr. Herman, and he addressed the Exchange Club where they meet in the Saxony Hotel, and I

met him at that time. He addressed the Exchange Club in the sense of one of his workers.

Q. Is that the only time that you ever saw him?

A. That was—that is the first time that I saw him.

Q. When did you see him again?

A. I saw him out in front of the hotel, sitting in an automobile, talking to some pickets.

Q. Did you ever receive any letters or communications from him?

A. I received—a copy of a communication that he sent to the Hotel Association—the present Hotel Association.

[fol. 67] Q. Did you receive that prior to the picketing?

A. Yes.

Q. Now, roughly, about how long prior?

A. I would say about—I would say maybe ten days. I do not know exactly.

Q. Is this your testimony, Mr. Fox, that when you recall your hotel being picketed, it took you completely by surprise, because you never had known to that moment, that Local 255 was attempting to talk to you on behalf of union representation?

A. When I saw my hotel picketed, I was the most surprised person in the hotel.

Q. Did you receive a letter dated, or a copy of a letter dated March 30, 1955, to a Mr. Leon C. McKaskill, stating——

Mr. Sibley: Show it to him.

Mr. Warren: Show it to him.

Mr. Sibley: Do you have a copy of the letter? I will concede that he received one, and if you have a copy, you can put it in evidence.

Mr. Gramling: I desire to refer to the more pertinent portions of this.

Mr. Sibley: If you wish——

Mr. Gramling: May I proceed in the questioning or cross examining?

[fol. 68] Judge Carroll: What are you asking him?

Mr. Gramling: I want to know whether or not he was aware, that over the signature of Dave Herman this message was gotten to him:

"This union represents a substantial number of hotel employees who are employed in Miami Beach hotels by members of your association."

Q. You are a member of the Miami Beach Hotel Owners Association, are you not?

A. That is right.

Q. Are you aware that this letter requested a meeting or a coming together of management or a representative of management and the union for the purpose of negotiating labor matters and controversies?

Mr. Sibley: I object to that, upon the ground the witness should be shown the letter, so that the witness will have a chance to identify it.

When he is, I will admit it in evidence, and you may read from a portion of it.

By Mr. Gramling:

Q. To save time, I will show you—I hand you herewith——

A. I can read it.

Q. —the hotel employees—a newspaper, with a copy of a letter on its letterhead—on the letterhead of 255, to Mr. McKaskill, and ask if you did receive a copy of that letter? [fol. 69] A. I actually—I do not believe that this letter is the same, in substance, I received.

Now, it could be—I would have (sic) check my file. I do not believe it is worded the way I received my letter. I am not certain of that.

Q. Well, Mr. Fox, would you be so kind, in the event that the Court recesses this hearing for a future date, to refresh your memory as to whether or not this a true and correct copy?

A. I will bring my file.

Q. Is it possible, that——

Mr. Gramling: Will opposing counsel stipulate as to the authenticity of that print?

Mr. Sibley: I am not sure. I really am not sure. If you have a copy, let me see it. Is Mr. McKaskill here. Do you have a copy of that letter that they sent you?

Mr. Gramling: This is too informal.

Gentlemen, I request this be marked as defendent's Exhibit No. 1-A for identification.

(The document referred to was thereupon marked "Defendant's Exhibit No. 1-A for Identification.)

By Mr. Gramling:

Q. Mr. Fox, did you ever talk to Mr. Herman over the telephone?

[fol. 70] A. Yes, I did.

Q. What was the advice of that conversation?

A. Mr. Herman told me that three days after our picket line was up, Mr. Herman called me and told me that some of the members had mentioned to him that I said I was not given an opportunity to negotiate, and he said the members were in the—had come to his office, and he said, be that as it may, it is now history. He said, "You pay your boss I will negotiate with him, now." And I said to him, "Mr. Herman, I would suggest"—I might have called him "Dave". I said, "I would suggest that you get in touch with our lawyer, Mr. Sibley."

Q. Mr. Fox, is it not true that you did have a telephone conversation with Mr. David Herman prior to the picketing?

A. Now, that is right—prior to the picketing—it was on a—I cannot tell you the exact date. Mr. Herman called the hotel and said that he objected to the assistant housekeeper discussing people joining or not joining the union, and I told him the information he had was untrue.

Q. Now, as a matter of fact, didn't he ask you at that time—and this is prior to the picketing—that he did want to negotiate with you, and that you said your employer—I believe Mr. Sax—is that his name?

[fol. 71] A. Yes.

Q. Was out of town?

A. No.

Q. You did not tell Mr. Herman that Mr. Sax was out (sic) town?

A. Mr. Herman asked me when Mr. Sax would return to the city, and Mr. Herman knew he was out of town. Evidently he had information that he was out of town.

Q. When did Mr. Sax return?

A. I do not recall the exact date that he returned, but it was before the picket line; yes.

Q. Mr. Sax did come back prior to the picketing?

A. Yes.

Q. Mr. Herman had already inquired of you when Mr. Sax was going to return to this jurisdiction; is that correct?

A. He asked me when he was going to return. I told him I did not know.

Q. You knew that Mr. Herman wanted to talk to Mr. Sax, did you not?

A. I was sure he was going to talk to him.

Q. As a matter of fact, hadn't you already told Mr. Herman that you were not in a position to discuss labor matters with him; that that would be up to Mr. Sax?

A. No.

[fol. 72] Q. You never told him that?

A. No; I do not recall that conversation at all, sir.

Q. Well, do you have (sic) idea, as to why it was that Mr. Herman was waiting for Mr. Sax's return?

A. Mr. Herman knew when Mr. Sax was going to return, without asking me.

Q. Now, when Mr. Sax did return, do you know whether or not either you, or to your knowledge, Mr. Sax contacted Mr. Herman?

A. What was that? Give that to me again?

(The pending question was thereupon read by the reporter as above recorded.)

A. I do not know.

Q. You did not; did you?

A. Contact Mr. Herman?

Q. Yes.

A. I did not contact him.

Q. Now, Mr. Fox, what instructions were given to your various department heads, and generally to your staff, as to what they should—as to how they should instruct the general employees on the subject of union membership?

A. There was no instruction.

Q. You gave no instructions?

A. No, sir.

[fol. 73] Q. Who is Mrs. Titour?

A. She is our executive housekeeper.

Q. She is your executive housekeeper?

A. That is right.

Q. Now, as such, when she speaks to the maids and to the housemen, she speaks with the authority of your office; is that correct?

Mr. Sibley: Just a minute. I object, upon the ground this is not in cross of anything on direct examination. I dislike to do this, but we are in a hurry, and I am going to be cramped on putting on my proof, and if I have to make that objection——

Mr. Gramling: If your Honor, please, this is in direct response, according to him, where all of a sudden there are pickets with no prior notice nor anything else, and now we find out that there has been prior conversation, that actually Mr. Herman was waiting for the arrival of Mr. Fox's superior who, upon arriving, never did—did not open his mouth, and we get into the veracity of the respective plaintiffs and the managers.

Judge Carroll: The question right now is the materiality of what you are asking. If you want to bring it out, bring it out later. Objection overruled.

[fol. 74] By Mr. Gramling:

Q. Who is Mr.——

Judge Carroll: Is the question? Did he answer it?

(The last question was thereupon read by the reported (sic) as follows:)

("Now, as such, when she speaks to the maids and to the housemen, she speaks with the authority of your office; is that correct?")

Judge Carroll: Objection overruled.

The Witness: When the house—when the housekeeper speaks in regard to operations or policies, within the hotel, she speaks for my office.

By Mr. Gramling:

Q. Who is Mr. Winebrenner?

A. Mr. Winebrenner is a former superintendent of service at the hotel.

Q. You say, "former"?

A. That is right.

Q. When did he leave your employ?

A. He resigned, I believe it was the 15th of this month.

Q. The 15th of this month?

A. Yes.

Q. Was he employed as superintendent of service at the time of the commencement of the picketing?

A. Yes.

[fol. 75] Q. And how long prior to that?

A. I do not know how long he worked. He has been there ever since I have been there.

Q. In other words, you would say more than a month prior to the picketing?

A. Yes.

Q. As much as a year?

A. I would say so, yes.

Q. When he speaks, does he speak with the authority of your office behind you?

A. I answered that question, the same way pertaining to policy and management policy and operation. He speaks from our office.

Q. Now, as a matter of fact, the policy—as Mr. Winebrenner told those employees under him that they would be discharged for union activities or membership in a union, that is within the policy of your hotel; is it not?

A. No.

Mr. Sibley: I object to that, and move to strike the answer upon the ground that it is immaterial and irrelevant. They are not picketing on the grounds that they are attempting to fire some union employees; they are picketing on the grounds that we will not negotiate with them—at least that is what they say.

[fol. 76] Judge Carroll: Overruled.

By Mr. Gramling:

Q. You say, no, that would not be with the authority of your office; but, on the other hand, you just stated that when they enunciate the policy of the hotel to the employees under their respective authorities, referring to Mrs. Titour and Mr. Winebrenner—that is certainly within their prerogative as being your subordinate and controlling the employees in their respective departments; is that not correct?

A. There was never a department head in the hotel that was told to stop people from joining the union.

Q. In other words, you did not instruct Mrs. Titour——

A. Absolutely——

Q. —and Mr. Winebrenner to do this?

A. Absolutely not.

Mr. Gramling: That is all.

Mr. Sibley: Come down.

(Witness excused.)

[fol. 77] Thereupon—SAUL COHEN was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.

A. Saul Cohen.

Q. What hotel are you interested in?

A. Casa Blanca.

Q. Do they have a picket line at your hotel?

A. Yes; they do.

Q. When was it put there?

A. I do not recall the date. It has been about ten days ago, I believe.

Q. Were you there when the line went up?

A. No. I came over about a half hour after—I came over about an hour after the line.

Q. What effect has that picket line had on your hotel?

A. It has, as far as business is concerned, it has hurt it; and as far as our staff is concerned, it has hurt, and our food department and our beverage department is in poor condition.

Q. What position do you hold with the Miami Beach Hotel Association?

[fol. 78] A. I am president at the present time.

Q. How long have you been president?

A. About a year and a half, now.

Q. Did you have a conference with Mr. Herman, in March, with reference to the Miami Beach Hotel Association?

A. Yes.

Q. And where did that take place?

A. At my hotel; at the Casa Blanca.

Q. What was said at that conference?

A. Mr. Herman asked me—he was with a Mr. Berlin—Mr. Ira Berlin—and Mr. Herman—I asked Mr. Herman if he was there to talk to me about the Casa Blanca Hotel, and he told me he was not; but he did want to talk to me, as president of the Miami Beach Hotel Association.

He asked me if I would be willing to ask a committee of five or six men, members of the Hotel Association, to sit down as a committee to talk to him about labor relations.

Q. What did you tell him?

A. I told him I could not.

Q. Why?

A. Because it is not my function to do things of that type.

Q. Had the Hotel Association authorized you to negotiate wages, hours and conditions in the individual hotels?

A. Oh, no.

[fol. 79] Q. Now, did you have a conference with Mr. Herman after date, in reference to your hotel, the Casa Blanca?

A. No; I did not.

Q. Did he ever invite you to discuss and negotiate with a representative of your employees?

A. No.

Q. This picket line was brought up without any opportunity for you to negotiate with your employees, as being representatives of the union?

Mr. Brown: I object to the leading form of questions.

Mr. Sibley: I will withdraw the question.

By Mr. Sibley:

Q. Will you state whether or not an opportunity was afforded you to negotiate with Mr. Herman as the alleged representative of your employees.

Mr. Brown: I object.
Mr. Sibley: I asked him to state whether or not——
Judge Carroll: Overruled.

By Mr. Sibley:

Q. Answer the question.
A. No; he did not.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Gramling:

Q. Mr. Cohen, you apparently have testified to the tenor or effect that Mr. Dave Herman talked to you about wanting [fol. 80] to negotiate, or recognition of the union for the purpose of negotiating, but he did not talk to you as president of your hotel or spokesman of your hotel, but rather with your hat turned in another direction and spoke to you only as president of the Miami Beach Hotel Owners Association; is that it?

A. I do wear a hat; but, actually he spoke to me about the—asked me to appoint a committee of the members of the Hotel Association, to sit down and talk to him about labor relations.

Q. But he talked to you, you say, only in your capacity as president?

A. That is correct.

Q. That is, of the hotel owners, and not in your managerial capacity in your hotel?

A. That is correct.

Q. Now, as a matter of fact, did you not tell Mr. Herman, or lead him to believe that the Hotel Owners Association was actually the appropriate unit to discuss management-

labor, or labor-management relations on behalf of the industry?

A. No.

Q. You never said anything like that?

A. No.

Q. Now, Mr. Cohen, on cross examination, I do not want to trick you or mislead you. I want to be sure that you [fol. 81] understand me, so that your answers are, according to your oath and to the best of your understanding.

Mr. Sibley: Ask him the question.

The Witness: I understand.

Mr. Gramling: I want to be sure, that if the time comes for some impeachment, I did not warn——

Mr. Sibley: He is under oath. He is warned.

By Mr. Gramling:

Q. You have never taken the position that the appropriate unit for bargaining, or let us say representation in management-labor relations, is through the Hotel Owners Association?

A. That is my position.

Q. Now, as a matter of fact, does your organization get out bulletins to its members?

A. On rare occasions, yes, we do.

Q. Do you recall your Association getting out a bulletin dated November 7, 1952?

A. I do not believe I was a member of the Association at that time. If I was—I know that I was not an officer.

Q. Well, if you were not an officer, you are now, are you not?

A. Yes; I am now

Q. In your present office, have you repudiated the utterances or the policies of your predecessors?

[fol. 82] Mr. Sibley: I object to that, upon the ground that it is immaterial and irrelevant, and calls for a conclusion, and it is not sensible under the circumstances.

Judge Carroll: Sustained.

Mr. Gramling: Gentlemen, prior to that—I would like to, if I may be heard for a moment—I have here, which I am going to offer for identification, a special bulletin——

Judge Carroll: The ruling to the last question was sustained.

Mr. Gramling: All right, sir.

By Mr. Gramling:

Q. Is Mr. Samuel Kaplan still connected with the Hotel Owners Association?

A. No, sir.

Q. You are not familiar with what transpired, as far back as 1952?

A. I do not. I did not—I had very little interest in Association matters at that time. I do not even recall whether I was a member of the Association.

Q. Now, your position, then, is that because Mr. Kaplan spoke to you as president of the Association, and not in your official capacity with your hotel, then you did not know, as manager—I mean your connection with the hotel, you did not know that he wanted to talk to you about labor relations?

[fol. 83] A. I cannot understand——

Mr. Sibley: You said, "Mr. Kaplan."

The Witness: I was thinking in terms of Mr. Kaplan. I do not know what——

Mr. Gramling: Strike that question. Strike the last question.

By Mr. Gramling:

Q. Mr. Cohen, you have testified, on direct examination, that you did not know that Mr. Herman wanted to meet with you pertaining to labor-management relations; is that correct?

A. I did not say that. I did not say that. I do not think I did.

Q. Didn't you testify that picketing took you by surprise, without your ever having an opportunity to talk to Mr. Herman?

A. Well, I told you that I had, at one time, spoken to Mr. Herman, and I told you just what the conversation was about.

Q. But your sworn complaint in this case says that you were suddenly picketed without any approach toward negotiation; that you never——

A. That is right.

Mr. Sibley: The sworn complaint tells about the conference between Mr. Cohen and Mr. Herman. Read the complaint.

[fol. 84] Mr. Gramling: Yes; but in his representative capacity.

By Mr. Gramling:

Q. Now, as an individual, Mr. Cohen, didn't you know that Mr. Herman wanted to talk to you about labor relations?

A. Where?

Q. At your hotel—all the hotels—any hotel on Miami Beach, including your hotel?

A. No, sir; I did not.

Q. Do you know it now?

A. I read the newspapers, and see that it includes me, too.

Q. Well, now, that is the only way that you know, now, that you do know from the newspapers or any other source that Local 255 would like to talk to you—would you be willing to talk?

A. To Local 255? Under the circumstances as the means and ways that they have handled their present campaign to do the things that they are doing to the hotels on Miami Beach, I do not believe that I would, sir.

Q. Now, why won't you negotiate with the union, as representatives of such of its members as are your employees?

A. I cannot get that question.

Mr. Gramling: Read it back to him.

(The last question was read by the reporter as above recorded.)

[fol. 84a] A. I did not say that I would not negotiate with the union. I said that I would not negotiate with this

union. I do not think that I would consider some of the things that they have done to cripple our business.

Q. Mr. Cohen, is it not right that the laws of the State of Florida, in which we all live, tells the workers that they are to select their union, and not you to tell them, well, you do not like a union that they have?

A. I do not know that much about the laws of the State.

Q. In other words, if you would select a different union for them, you would talk to that other union, and you——

A. I did not say that, sir.

Q. How many employees ceased work at the commencement of the picketing?

A. I do not know. I do not have access to those records. I do not know how many.

Q. I believe you said that certain departments of your hotel are experiencing what you call, roughly, business as usual?

A. Did I say that?

Q. Well, that they are not experiencing any great distress?

A. I did not say that, sir.

Q. Well, is it true or incorrect that you are experiencing [fol. 85] great distress in your business?

A. We are experiencing some difficulty in the operation of our hotel, and are some departments that are—most of the departments that are not doing the usual amount of business.

Q. Now, when you say the "usual amount of business," upon what do you predicate that assumption?

A. Well, we keep records as to how (sic) business we do. We know how many people we have to feed, and we have an average amount of business that we expect to do, and usually do in our beverage department, and the other departments.

Q. You keep those records?

A. I do not keep the records. They are kept for me, sir.

Q. Then, it is possible for you to ascertain exactly what you would say you are suffering, as the result of the picket line?

A. Those records are available for me.

Q. Do you have those records here with you?

A. Oh, no.

Q. What would those records reflect, if you know accurately, as a loss of your business?

A. I know it would reflect, that in our room business, we presently have about 20 to 30 rooms that we are devoting to the members—a great number of the members of the staff of our hotel. We are housing them there for the [fol. 86] reason that they, themselves, are frightened to leave our hotel, and we are frightened to leave them leave us, since they might not possibly come back.

Mr. Gramling: Do not make a speech from the witness stand, and I move to strike this conclusion of his as to how his employees or staff feel.

Mr. Sibley: I think that is a reflection of loss of business. He has to keep them in the hotel.

The Witness: I answered the question to the best of my ability.

Judge Carroll: Denied.

By Mr. Gramling:

Q. Now, those—you say 20 or 30 rooms?

A. 20 or 30.

Q. Are those the only rooms that you have that are non-income producing?

A. I have not looked at the records today, or I do not believe, in a day or two.

Q. But you could have looked at them, could you not have, in the last few days?

A. They are available to me.

Q. You have taken an oath that you are suffering grave and irreparable injury?

A. That is correct, sir.

[fol. 87] Q. Now, you also state that you could not ascertain it?

A. I did not say that. I said the records are available for me.

Q. And who—over your signature, where you swore to that—may I read the pertinent part——

A. Well——

Q. Well, now, this is what you signed and swore to—while they are looking for that—you swore to the fact that by reason of the unlawful conduct of the defendants, members of the public are being deterred and stopped from patronizing the plaintiff's place of business, which is causing plaintiff irreparable loss and damage.

Now, you did not say seriously inconvenienced by having to have your staff sleep in, but you state, irreparable loss, and then you go on to add—there is no method or means by which the exact loss may be determined, and there is no method or means of determining the full damages caused —and so on.

Do you recall that statement?

A. Yes; I recall the statement.

Q. And yet, now, you testified that you do keep records on a day to day basis, and you can tell exactly what your business should have been?

A. I only say that I have not looked at the records in [fol. 88] the last couple of days.

Q. What do the records show the day before yesterday, or the day you did look at them?

A. I get a record in my hotel, and that is—it has sheets of information pertaining to every possible department, and you do not expect me to come in here and give you an answer as to how much business I did one day, as compared to the next?

Q. I want to know whether you had them, and I will tell you why I want to know, because I do not want to quarrel with you on the witness stand.

A. Ask me in a more direct way and——

Q. Is it not true that you have publicized, on behalf of your hotel, that your business is not suffering; that you are getting along splendidly and that the strike is not at all effective?

A. What would you do if you were a business man?

Judge Carroll: Just a moment. Try to make a direct answer.

Mr. Sibley: Answer the question.

The Witness: Please ask the question again.

Mr. Gramling: Read the question.

(The following question was thereupon read by the reporter:

"Q. Is it not true that you have publicized, on behalf of [fol. 89] your hotel, that your business is not suffering; that you are getting along splendidly and that the strike is not at all effective?"

The Witness: Yes; there would be some publicity to that statement. May I give you the reason why that was—that type of business—that publicity?

By Mr. Gramling:

Q. If you want to explain, go ahead.

A. It is my opinion that it would be bad business, on my part, to publicize the fact that my business has been impaired; that my service is not as good as it is, usually. I do not see how a person could possibly get business into their hotel, to broadcast the fact of that type. I am still in business, and I would like to continue in business.

Q. Was it really the truth, when you did advertise that you were not experiencing any difficulty as a result of the strike, that that was not effective where you were concerned?

A. I do not understand the question.

Mr. Gramling: Read the question.

(The last question was thereupon read by the Reporter as above recorded.)

[fol. 90] Judge Carroll: He already answered it.

Mr. Gramling: He said he did not understand it.

The Witness: Isn't that a question repeated in some way?

Judge Carroll: He already answered the question.

By Mr. Gramling:

Q. Mr. Cohen, did you not advertise in three distinct full page ads just three that I know of—perhaps more—but three that I know of—that the strike—to the effect that the strike was not effective; that you were able to

give, generally, the same service; that you were not experiencing any difficulty?

A. I do not recall what was in that ad. I do not recall all of the words.

Q. Generally, was that not what you wanted to leave (sic) the public to believe, that you were not seriously inconvenienced, so they would come to your hotel?

A. There are a lot of things in that newspaper copy—I do not know what it is that you are referring to. Be more specific and I will try to give you the answer.

Q. Did you publish in full page ads, that your hotel was able to fully and properly serve the people, and that you were not being inconvenienced or hurt by the strike, and generally that the strike was not effective?

[fol. 91] A. That is exactly the same thing that I told you before, sir. It would be very bad business on our part—on my part—to tell the public that my business is impaired; that I could not give them good service; that they would be making a big mistake to come to my hotel.

I am still in business, and it is my purpose to give the best publicity that I can for my hotel.

Q. So, you did resort to that publicity.

A. That is right.

Q. Now, is it true what you say in your bill of complaint, that you are suffering irreparable damage?

A. There is no question to it, sir.

Q. Then, which is true—are you falsely advertising, or are you falsely swearing; that is the only question I am asking you—which is correct?

A. I do not think the word "false" would fit into it.

Mr. Gramling: That is all.

Redirect examination.

By Mr. Sibley:

Q. As a result of this so-called strike, that they referred to, have you had to close your dining room?

A. No; we did not close our dining room, but we were very, very much impaired in our dining room. We have been serving considerably less meals now than we did ten [fol. 92] days to two weeks ago.

Mr. Sibley: That is all. Come down.

(Witness excused.)

Thereupon—Ted Kedzierski was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Ted Kedzierski.
Q. What is your occupation or profession?
A. Sergeant; Identification and Records Bureau of the Miami Beach Police Department.
Q. Have you, in pursuant (sic) to a subpoena duces tecum produced all of the records in reference to all of the violence and instances which have grown out of this present hotel difficulty?
A. I think so; yes.
Q. Let me see those, please. The papers you handed me are the complaint that has been filed in reference to violence at the several hotels where there is a picket line at the present time?
A. That's correct.

[fol. 93] Mr. Brown: I object to the leading question.
Judge Carroll: Overruled.
Mr. Sibley: I am trying to identify the records.
Mr. Brown: I object, on the further grounds, Your Honor, that the testimony is entirely by counsel. He defines the nature of the acts.

Offers in Evidence

Mr. Sibley: I am going to offer them in evidence.
Mr. Brown: I think the evidence is proper. The documents might be proper, if they are the right kind, but the question——
Judge Carroll: We will disregard counsel's classification of the documents.

Mr. Sibley: We tender in evidence the documents produced by the witness.

Mr. Warren: Your Honor, would we be permitted to ask the witness some questions before, either concerning our consenting or objecting to it?

Judge Crawford: Concerning his qualifications?

Mr. Warren: Concerning his knowledge whether or not these papers refer to acts of violence on the picket line.

Judge Carroll: Yes.

Mr. Sibley: 25 documents.

[fol. 94] Mr. Warren: Your name is what?

The Witness: Sergeant Kedzierski.

Mr. Warren: Now, I hold in my hand Arrest No. 82,258, a card showing an arrest, which arrest purports to have been for Luiz Philip Cabaliero, and I will ask you to examine that and state, if you know of your own knowledge—not from what the records say—but from your own knowledge—where the arrest occurred?

The Witness: No, sir; only what is on the record.

Mr. Warren: Do you know who furnished the information for that document in that record?

The Witness: Yes, sir; whoever signed the affidavit.

By Mr. Warren:

Q. Sir?

A. Whoever signed the affidavit.

Q. The signer of this affidavit would be the man who knew whether or not that offense took place there; is that right?

A. That is right.

Q. What does that record show, Sergeant, as to the disposition of that case.

A. That case has not been disposed of as yet.

Q. It is just a mere charge.

[fol. 95] A. Yes.

Q. What does it charge him with—does it charge him with—look again, please, Sergeant?

A. Malicious mischief.

Q. What is malicious mischief?

A. Malicious mischief——

Q. Is that a charge of being suspicious?

A. This says, malicious injury to personal property of another.

Q. Then, would you state again who the signer of that affidavit is? A. Armando Perez.

Q. Is he a member of the Police Department?

A. No, sir.

Q. Well then, the Court has not passed on that charge yet?

A. No, sir.

Q. Now, I hand you Arrest No. 82259, of Leonardo Muniz, and will you look at that and tell me if you have any——

Judge Carroll: I imagine his answer would be the same as to all. You might test him on that and see if they are, and you will not have to go through each one.

By Mr. Warren:

Q. As to all of these, Sergeant, do you have any personal [fol. 96] knowledge as to whether or not the defendants there were at the places named in the charge there?

A. No, sir.

Q. And I will ask you if you can thumb through them, hurriedly, and state if anyone of the defendants named in those warrants there has been tried?

A. Yes, sir; some of them.

Q. Some of them have.

A. Yes.

Q. Are a number of those warrants there charges and counter charges—one person being charged with an offense by an affiant, and he, in turn, charging the other affiant with an offense?

A. Not here; no, sir.

Q. How many of those have been disposed of, would you say; would you thumb through them, if you will, please, and state how many of them have been disposed of by the Court?

Mr. Warren: How many, in all, are there?

Mr. Sibley: There are 25.

Mr. Warren: 25; thank you. I do not want to take up too much time, but could you——

The Witness: None of these.

By Mr. Warren:

Q. None of those has been disposed of; none of the 25? [fol. 97] A. No.

Mr. Warren: Then, Your Honor, not wanting to drag this out, I would like to object to the introduction of any of them, on the grounds that they do not prove anything. They are mere charges and presumption of innocence there, and they lack any probative weight.

And, on the second ground, that they are not the best evidence. And may I say this—and I am not so familiar in these matters, but I am just trying to offer my thought that I have to the Court.

If those were adjudications of guilt, we could not go behind it; but, as they are, they are not the best evidence. The witness, himself, would seem to me to be the best evidence there, and we object to them on that ground, Your Honors.

Judge Carroll: Have they been offered?

Mr. Sibley: Yes, sir.

Judge Carroll: Do you wish to be heard on that?

Mr. Sibley: Yes. I want to be heard. The only purpose in offering it is to establish that there is a dangerous situa- [fol. 98] tion existing because of the picket lines, and we will call a great many of these people to testify, before the case is over, and we just want to show the general situation that has arisen by reason of these pickets.

Mr. Warren: May I add this additional ground, Your Honor.

Judge Carroll: The objection will be sustained, without prejudice.

Mr. Sibley: All right. I might turn those back to the Sergeant where he will have them.

Judge Carroll: You can have them marked for identification, and they may remain here.

Mr. Sibley: I promised he could have them——

Judge Carroll: They are in your charge. They have not been marked.

Mr. Sibley: I will turn them back to the sergeant, because they are the original records, and somebody is going to be tried on them.

Judge Carroll: Are you all through with this witness?

Mr. Sibley: Yes.

(Witness excused.)

[fol. 99] Thereupon—ARMANDO PEREZ was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Armando Perez.
Q. Are you a resident of Florida?
A. Yes.
Q. What is your occupation?
A. I do waiter.
Q. Where are you employed?
A. Sherry Frontenac.
Q. Where?
A. Sherry Frontenac.
Q. How long have you been so employed?
A. For three or four years—three or four years.
Q. Were you working at the Sherry Frontenac Hotel at the time the picket line was set up?
A. Yes.
Q. You were?
A. Yes.
Q. Are you a member of the union?
[fol. 100] A. No.
Q. Was there ever a meeting of the employees of the Sherry Frontenac Hotel to determine, by secret ballot, whether a majority of such employees wanted to participate in the strike.

Mr. Brown: Your Honor, I object. He said he is not a

member of the union, and he certainly is disqualified from knowledge of the facts——

Judge Carroll: Overruled. He can answer as to whether or not he knows, of his own knowledge.

By Mr. Davis:

Q. Was there ever a meeting of the employees at the Sherry Frontenac?

A. I do not understand——

Judge Carroll: He does not understand your question.
Judge Cannon: Get an interpreter.
Mr. Davis: Question withdrawn.

By Mr. Davis:

Q. Since the picket line has been thrown, has anybody threatened you?

Mr. Brown: I object.
The Witness: Yes.
Mr. Brown: I object to the leading question.
Judge Carroll: Sustained.
Mr. Brown: I move the answer be stricken.

By Mr. Davis:

Q. Since the picket line, has the union or any member [fol. 101] of it interfered with your work at the Sherry Frontenac Hotel?

Mr. Brown: I object.

Mr. Gramling: Objection as leading. He is testifying for the witness, so all this fellow will have to do is nod.

Judge Cannon: This witness needs an interpreter.

The Witness: My brother is here.

Judge Cannon: His brother is here. He speaks Spanish.

Mr. Gramling: Oh, no, Your Honor. I object to his own brother being used as an interpreter.

Judge Cannon: Get your brother, then.

Mr. Gramling: This interpreter is an interested witness in the cause, and you are using him as the mouth piece of another witness. We do have another Spanish speaking—get me a couple of disinterested Spaniards.

Judge Carroll: Mr. Gramling, the type of questions that he is asking, I do not see why this man cannot—

Mr. Gramling: This man they are using has a police record for having assaulted our pickets.

Judge Cannon: Get your own interpreter.

[fol. 102] Judge Carroll: We will take a five-minute recess before proceeding.

(Thereupon a five-minute recess was taken, after which the following proceedings were had.)

Judge Carroll: Let us examine this witness and see whether or not an interpreter is necessary.

Mr. Davis: I think it can be done.

By Mr. Davis:

Q. Will you tell the Court what happened to you the night before last—what happened to you the night before last?

A. Shall I tell them about it? I going to the Singapore Lounge, and there is a dance over there, and I see Luiz Cabaliero.

Q. Who?

A. Luiz Cabaliero.

Q. Who is he? A. One of the fellows.

Q. Is he a picket?

A. Yes.

Mr. Brown: I object to that, Your Honor, as leading.

Judge Carroll: Overruled.

A. (Continued) And he talked to me, find me a job. I told you—you joined the union, and he say, no, and when I [fol. 103] got out of Singapore Room with my brother and two ladies, I opened the car, and I see through the car Muniz.

Q. Who is he?

A. One of fellow who hit me in left hand.

Q. Is he a picket?

A. Yes. He is in front of him, you know what I mean, and he hit me with a—he picked out of my car, pick out the tire—you have a tire—you have a flat tire—he pick out of my car and he keep it.

Q. You are talking about a tire lug? A. Out of my car.

Q. What did he do?

A. Hit me—hit the car first, and when I sit down, he open the door and hit me inside, right in left hand.

Q. This fellow, did you know him before?

A. At Sherry Frontenac.

Q. He used to work with you at the Sherry Frontenac?

A. Bus boy.

Q. He is a picket?

A. Yes.

Q. Now, I hand you three photographs, and ask you to examine them and state whether or not they accurately depict your automobile, after this altercation?

A. (Witness examining) My automobile is behind in [fol. 104] back.

Q. Is that your car?

A. Yes.

Q. Is that the way it looked when they got through with it?

A. Yes. When he break my car—is brand new one, a '53, and he——

Q. Is that the way it looked when he got through with it?

A. Yes.

OFFERS IN EVIDENCE

Mr. Davis: We offer in evidence the three photographs.

Mr. Gramling: I would like to ask a few questions concerning these photographs. They are offered in evidence, and may I propound a few questions in connection with it.

Judge Carroll: All right.

By Mr. Gramling:

Q. Armando, where did you say you were?

A. Sherry Frontenac.

Q. What was the name of the bar?

A. Singapore.

Q. Were you drinking with this fellow?

A. No.

Q. No?

[fol. 105] A. I with my brother.

Judge Carroll: You were asking him—

The Witness: I see another fellow, Luiz Cabaliero, and he see me, you know what I mean, and he see me, and he take —around there who worked in Sherry Frontenac. I call all the boys——

By Mr. Gramling:

Q. Where did this happen; where is your automobile? Where is your automobile parked in this picture?

A. It is parked——

Judge Carroll: You asked him two questions. You asked him where it happened and you——

Mr. Gramling: I want to ask him about both.

By Mr. Gramling:

Q. Where was your automobile when this happened to it?

A. In front—the top.

Q. Where was your automobile—in front of the Singapore?

A. Behind the Singapore—how the fellow hit me over here.

Q. How far is the Singapore from the hotel where you work?

A. Forty blocks—65th and Collins, and the Singapore is 23rd and Collins.

Q. About 40 blocks away?

[fol. 106] A. Yes—42 blocks.

Mr. Gramling: Your Honor, I object to the introduction of these pictures as depicting something that happened to an automobile in back of a bar, arising out of something that arose in a bar that is 40 blocks away from the scene of any picketing that is sought to be enjoined here.

Those kind of bar room brawls happen all over Miami Beach, or in colored town, or every other place.

It has no connection with any labor dispute.

Judge Carroll: Objection overruled; file them as one exhibit.

(Three documents just referred to were thereupon marked Plaintiff's Exhibit No. 8, as one exhibit.)

By Mr. Davis:

Q. Armando, after it happened, did you call the police?
A. I go inside Singapore Lounge and I call the police.
Q. Did you tell them the names of these fellows?
A. Yes; and he go right to the union and find the two fellows.
Q. Where?
A. Union—union hall.
[fol. 107] Q. Where is that?
A. Alton Road.
Q. Miami Beach?
A. Miami Beach.
Q. Did you find those two men at the Union Hall with the policeman?
A. Yes.

Mr. Brown: I object. I wonder who is doing the testifying—counsel or the witness. This witness did nothing but nod——

Judge Carroll: He is asking leading questions because of his unfamiliarity with the language, apparently.

Mr. Brown: We should not be prejudiced by that, Your Honor.

Judge Carroll: See if you can avoid leading questions.

Mr. Davis: I will do my best.

By Mr. Davis:

Q. I ask you whether or not these two men were found by the policeman and you at the Union Hall?

Mr. Gramling: If Your Honor please, I object to that, because now this goes back to our opening statement of this afternoon, as to what case which one of you chancellors—[fol. 108] do any of you gentlemen know which case is now under discussion?

Judge Floyd: The Sherry Frontenac.

Mr. Gramling: There is not one iota of testimony that anything pertaining to the picketing at the Sherry Frontenac is involved in this matter here.

Judge Floyd: I assume counsel wants to bring that out.

Mr. Davis: May I call your attention to the fact that this

witness has testified that the men who assaulted him in his automobile were former employees at the Sherry Frontenac, and were in the picket line there.

Mr. Gramling: It could not have been in the picket line, because he testified it was at the Singapore, 40 blocks away.

The Witness: He work—he waits for me over there.

Judge Carroll: Objection overruled. Is there a question pending?

Mr. Davis: Yes; I think there is a question. Read it back.

(The following question was thereupon read by the Reporter as above recorded:

"Q. I ask you whether or not these two men were [fol. 109] found by the policeman and you at the Union Hall?")

By Mr. Davis:

Q. When you went to the Union Hall, did you find these two men there?

A. Yes.

Q. Now, before this happened, this night before last, was there any other occasion that anything happened to you?

A. One of the bell boy at the Sherry Frontenac, he told me, "You got a knife?" I said to him, "What?" He said, "You use your knife"—in front of Sherry——

Q. I do not understand what you are talking about now. When did this happen?

A. Saturday.

Q. When?

A. I think Saturday.

Q. Last Saturday?

A. Yes.

Q. What happened?

A. I go inside Singapore—you know what I mean—and I see four—I see Luiz Cabaliero and he told me, you want to find me a job—you know what I mean——

Q. We are talking about—I am talking about did anything happen to you before the Singapore?

A. That is what I told you.

[fol. 110] Q. Tell me about it again louder and clearer.

A. In front of the Sherry Frontenac, I went to get something from my car.

Q. Were you working at the Sherry Frontenac then?

A. Yes.

Q. What time of day was it?

A. It was ten to one.

Q. What time did this incident happen?

A. In—after four o'clock.

Q. What happened?

A. I got out—I want to get one of my clothes in my car—you know what I mean—and I go to bell boy and he told me, "You got a knife." I told him, "No." He told me, "You better use it."

Q. Who was this bell boy?

A. It is big fellow named Louis.

Q. Was he in the picket line?

A. Yes.

Q. What did he say to you?

A. He told me, "I better use a knife."

Q. Better use a knife.

A. Yes.

Q. Use a knife to do what?

A. Maybe he hit me or something to protect myself.

[fol. 111] Mr. Brown: I object to the "maybe" in the answer and the statement following.

Judge Carroll: What is the objection?

Mr. Brown: He said, "maybe this" and "maybe that." I object to his statement of conjecture.

Judge Carroll: Objection sustained; and answer stricken as not responsive.

By Mr. Davis:

Q. Was there any time that anybody made any threats?

A. No; only this time.

Mr. Brown: I object to the question. There is no indication that this conversation was of a threat of any kind. The witness himself said he does not know what the conversation meant "maybe this" and "maybe that".

Judge Carroll: Overruled.

Mr. Davis: He testified, and the Court can decide.

By Mr. Davis:

Q. Was there any other occasion? A. No.
Q. That was the only one?
A. No.

Mr. Davis: You may inquire.

Cross examination.

By Mr. Benjamin Gettler:

[fol. 112] Q. Mr. Perez, you say you are a waiter at the Sherry Frontenac?
A. No. I work in—I work bus boy, maybe two years.
Q. When did you become a waiter?
A. Six or seven days.
Q. Six or seven days?
A. Yes.
Q. When the picketing started?
A. I do three or four times in bartender, too.
Q. Since the picketing started, you moved up from a bus boy to a waiter?
A. I do it before, one or two times—bartending of, and I do it and somebody quit, and I do bartender.
Q. You had been regularly a bus boy?
A. I mean, first bartender—somebody out, and I work —you know what I mean.
Q. Your normal job was a bus boy's job?
A. Yes.
Q. Bus boy.
A. Yes, and I know how to do bartending and waiter, too.
Q. Where do you live?
A. 4202 North Miami Avenue.
Q. Since the picketing started, are you still living there or are you living in the hotel?
[fol. 113] A. I still living, and one union fellow called my mother——

Mr. Gettler: I object.
Judge Carroll: Answer the question.

By Mr. Gettler:

Q. Mr. Perez, last night, when you finished working at what time?

A. 1:00 o'clock bar closed.

Q. 1:00?

A. Tuesday night the bar closed, and I think they—this happened to me on Tuesday, because I got off early.

Judge Carroll: He asked what time——

Mr. Gettler: I will withdraw the question.

By Mr. Gettler:

Q. On Monday you went to work at the Sherry Frontenac?

A. Yes.

Q. What time did you go to work?

A. I work—another fellow don't want to work—I go 8:00 o'clock in morning.

Q. What time did you quit work that night?

A. I work eight hours, after I come back—my job—

Q. You finished working 4:00 o'clock Monday afternoon?

A. Yes.

[fol. 114] Q. And after you finished working, where did you go?

A. No place. Tuesday, this happened to me, the accident, and I remember——

Q. Let us go over to Tuesday. I have the wrong day. On Tuesday, what time did you start work at the Sherry Frontenac?

A. Tuesday, I work in dining room 4:00 o'clock.

Q. What time did you go to work?

A. 4:00 o'clock.

Q. In the afternoon?

A. Yes.

Q. When did you finish working?

A. 9:00 o'clock; when dining room close.

Q. 8:00 o'clock?

A. 9:00 o'clock, in night.

Q. 9:00 o'clock in the evening, and then where did you go? Did you go to the Singapore Bar?

A. I go over with three or four fellows, and go to——

Q. You got three or four fellows, and you went to the Singapore Bar?

A. Yes.

Q. This was 9:00 o'clock in the evening?

A. 10:00 o'clock or 10:00 or 11:00.

[fol. 115] Q. This was 10:00 o'clock?

A. 10:00 or 11:00 o'clock.

Q. Who was with you?

A. My brother.

Q. Who else?

A. Two fellows I give a ride over there. And two girls.

Q. What did you do at the Singapore Bar?

A. Dance. What do you do?

Q. Did you drink?

A. I drink one beer, that is all—one or two beers—one or two beers. I do not drink too much.

Q. How long were you there?

A. Well, to 4:00 o'clock.

Q. Until 4:00 o'clock?

A. Yes.

Q. From 10:00 o'clock in the evening until 4:00 o'clock in the morning, you had one beer?

A. One or two beers.

Q. Now, how much whiskey did you have?

A. I do not drink whiskey.

Q. You do not drink whiskey?

A. No.

Q. Did you start—when did you start having one or two beers?

[fol. 116] A. No. I wait a little while before I drink. I only go for a dance—Spanish dance.

Q. And in between, you were drinking beers?

A. Yes.

Q. For a period of six hours?

A. Only since 11:00 o'clock to 4:00 o'clock in the morning.

Q. Did you have any women with you there?

A. Two ladies that stayed at the Sherry Frontenac.

Q. You took two ladies?

A. She go along; I go separate.

Q. You met them there?

A. Yes. I find them——

Q. You met them there?

A. Yes.

Q. Was she drinking with you?

A. What? I sit down at table and I find her there.

Q. Were other fellows with you drinking also?

A. Not the other fellows. They go to the bar, and I sit down at the table.

Q. Did you sit down at the table by yourself, or sat down with a girl?

A. Yes.

Q. And when did you first see these two men that you [fol. 117] spoke of, Mr. Muniz and Mr. Cabaliero?

A. I work in Sherry Frontenac before——

Q. Did you see them at the Singapore that evening?

A. Yes. One—Cabaliero and outside.

Q. Cabaliero you saw inside?

A. Yes.

Q. What time did you see him?

A. A quarter after 4:00.

Q. A quarter after 4:00 in the morning?

A. Yes.

Q. You had already been there for six hours when you saw Cabaliero?

A. Yes.

Q. You had not seen him before?

A. No; only then, and he got—when he got out to Singapore, he called another boy and another wait for me inside in the door.

Q. Did you see him come to the Singapore?

A. When; who?

Q. Cabaliero?

A. Yes; he talked with me.

Q. He came in about 4:15?

A. Yes.

Q. And he was looking for you?

[fol. 118] A. And he say, you find me a job, and I told, you union; he said, no, and when I—everything happened—I go to detective and I find him in the union—you know what I mean.

Q. Now, at 4:15, you saw Mr. Cabaliero, and you spoke to him; is that right; you spoke to Mr. Cabaliero?

A. He talked to me.

Q. Then, did he leave you?

A. He left, and another fellow—they go to Singapore and he wait outside behind.

Q. Did you have an argument with him?

A. No.

Q. No argument?

A. I got with my brother.

Q. You finally decided to leave?

A. Yes. I sit in car, and he got in car and Muniz opened the door, and he went to hit here and here, in the left hand, you see.

Q. Now then, after you left the Singapore Bar, you said you had this altercation, and then you said you called the police?

A. I go inside Singapore and call for the police, and tell —call one detective to go with me outside, and he go, and I go to union and he find the two fellows. I knew their names before.

[fol. 119] Q. Did you go with him?

A. Yes. I give him names before.

Q. Did you tell him what to do?

A. I did not tell him what to do. I do not know—I do not tell where to go.

Q. You did not tell him?

A. I tell him two fellows belong to union—one belong to union, I know he belong to the union, and the two, and he go right there.

Q. Did you go to the Union Hall with the policeman?

A. Yes.

Q. Did you walk around the Union Hall?

A. Yes.

Q. Were there a lot of people there?

A. I do not care——

Q. Were there many people there?

A. Hundreds.

Q. Hundreds?

A. Yes.

Q. One hundred?

A. Yes.

Q. And did you look around at the people?

A. Yes.

Q. And you picked out the——

[fol. 120] A. Luiz Cabaliero and Muniz.

Q. Did you——

A. I give names to him before go there.

Q. Did you pick out Luiz Cabaliero right away?

A. No. Another fellow hit me—fellow hit me—Muniz—there is the guy that hit me.

Q. Did you pick out the union men just right away—Muniz?

A. Yes; and another fellow, when he see me, he go back, and he go straight down, and I told him, the detective.

Q. After you picked out Muniz, when you went out to the police car with Muniz?

A. Who——

Q. Didn't you go out to the police car with the policeman?

A. Another place, and Muniz got in another car with the police.

Q. He got in a car, and you said, "Wait a minute, there are some more; we have to get some more."

A. Luiz Cabaliero I remember.

Q. Didn't you say, "Several more."

A. I told him in Singapore.

Q. Didn't you tell the police there are several more inside; we have to go back?

[fol. 121] A. Maybe eight boys that work, wait for me. I see the guy that hit me, and the car—Luiz Cabaliero called another fellow.

Mr. Warren: Your Honor, we respectfully move the Court to strike this witness' testimony on the following grounds:

1—that his testimony is absolutely—it fails to prove or tend to prove any of the allegations in the original bill of complaint or in the amended bill of complaint, or supplemental bill of complaint.

The original bill of complaint was filed on April 18th. As I understand this witness' testimony, the event he describes occurred on the night of April 26th, last Tuesday.

The supplemental or amended bill of complaint was filed on April 26th, according to my understanding.

So none of these acts could have occurred before either of those bills of complaint were filed. It is my understanding that you cannot support bills of complaint by proof of acts that occurred after they were filed.

I know that was the rule regarding divorce bills of complaint.

[fol. 122] I further wish to move to strike it on the grounds——

Judge Carroll: Just a moment. All right. Go ahead.

Mr. Warren: We just rest on that grounds, (sic) Your Honor, that his testimony, whatever it means, relates to a date subsequent to the filing of both of the complaints, so it could not support any of its allegations in it.

Judge Floyd: When did it happen?

The Witness: On Tuesday.

Judge Cannon: What does the plaintiff say on that.

Mr. Sibley: I understand——

Judge Floyd: Ruling is reserved.

Mr. Sibley: The supplemental bill was filed on the 27th.

Judge Floyd: In the Sherry Frontenac action.

Mr. Sibley: That is the one that is involved.

Mr. Gramling: Pardon me.

Judge Floyd: I have the original file here.

Mr. Gramling: We received these copies that show that the oath before the Notary Public is dated the 26th.

Judge Floyd: I reserve ruling on that.

[fol. 123] Mr. Gramling: For the time being, we will let the testimony stand, even though it is obvious that it occurred after the amended bill was sworn to.

Mr. Warren: Your Honor, we object and move to strike it on the further ground, that it is almost incomprehensible and merely obfuscating.

By Mr. Gettler:

Q. After you left the police about 4:30 in the morning, on Wednesday morning, didn't you go out and round up a gang of fellows?

A. I did not have a chance.

Judge Carroll: I thought you were finished and you moved to strike all of the testimony.

Judge Floyd: I believe counsel started back——

Mr. Gettler: I started to ask a question——

Judge Floyd: And in the meantime, Mr. Warren saw an opportunity to regain the floor, and this witness is not through by this counsel.

By Mr. Gettler:

Q. Is it not true, that after you left the police, about 4:30——

A. 8:00 o'clock, they take him to bring him in Sherry Frontenac.

Q. After you left the police, on early Wednesday morning, after these events that you described, is it not true [fol. 124] that you and your brother went out and rounded up a gang of four other fellows, and went over to the Sherry Frontenac and attacked the pickets?

A. What time is that trouble over at the Sherry Frontenac?

Q. I am speaking after you left the police.

A. What time is the trouble over in Sherry Frontenac, the fight in the Sherry Frontenac?

Q. Will you answer the question?

A. Call the detective—what a minute—I had a detective to 8:00 o'clock in the morning. I had the police to 8:00 o'clock. There was a detective——

Judge Cannon: Answer his questions as asked. Proceed.

By Mr. Gettler:

Q. After all of this trouble that you just described, and after you left the police, is it not true that you and your brother went and got four other boys and a gang of you went up to the Sherry Frontenac and attacked the people walking on the picket line?

A. No.

Q. Is that true or not?

A. I wait for the police.

Judge Floyd: He was with the police until 8:00 o'clock in the morning.

Judge Cannon: Strike all of that.

[fol. 125] By Mr. Gettler:

Q. Were you not arrested for attacking the pickets at the Sherry Frontenac?

Judge Cannon: It calls for a conclusion.

By Mr. Gettler:

Q. Were you arrested?
A. No; you are wrong; you are wrong.

Mr. Gettler: That is all.
Mr. Davis: Come down.
Judge Cannon: Any further questions or——

(Witness excused.)

Thereupon—EILEEN ROGAN was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Eileen Rogan.
Q. Where do you live?
A. Chicago, Illinois.

Mr. Warren: Pardon me a moment. Did Your Honors indicate what your plans are regarding going further?
Judge Carroll: What is your estimate as to time?
Mr. Davis: It is hard to say. I have this particular wit-
[fol. 126] ness, and I think I will be through in five minutes.
Judge Carroll: Do you contemplate finishing by 6:00 o'clock?
Mr. Sibley: No, sir; we cannot.

(Informal discussion ensued off the record.)

Mr. Warren: Will you come up, please, Mr. Sibley?

(Counsel thereupon approached the bench at which time an informal discussion was had off the record, out of the hearing of the Reporter.)

Judge Carroll: Proceed.

By Mr. Davis:

Q. Please state your name again.
A. Eileen Rogan.
Q. Where is your home?
A. Chicago, Illinois.
Q. What do you do there?
A. I am secretary in a legal office in the Quartermaster's Depot there.
Q. You work for the Army?
A. Yes.
Q. What was the occasion for your being in Miami Beach?
A. Vacation.
[fol. 127] Q. How long was your vacation?
A. Well, I am going home tonight. I have been here for 11 days.
Q. Where did you stay?
A. Sherry Frontenac.
Q. Did anything unusual occur to you on the evening of last Tuesday, or the early morning of last Wednesday?
A. Yes.
Q. Will you tell the Court what happened?
A. Well, my girl friend and I went to the Singapore Lounge, and we met these boys that were from the hotel, and we were dancing with them there, and two of the boys offered to give us a ride home, and they had their car parked in back, and we just got into the car, when someone came up, and they started smashing windows, and there must have been at least three—I cannot say how many there were. There was one on each side, and somebody came in the back window and broke one of them, and one of them opened the door and started to hit the driver with a club, and then they got out and ran, and that is all.

Mr. Gramling: I would like to renew the motion of Governor Warren—the same motion as was made to the testimony of the preceding witness, at which I believe rul-
[fol. 128] ing was reserved. She testified this happened——
Judge Carroll: May I suggest, until the testimony is completed, that the ruling was reserved, anyhow. It will be a similar ruling.

By Mr. Davis:

Q. Who was the driver of the car?

A. Armando Perez.

Q. Is that the man that testified just before you did?

A. Yes.

Q. Was there any argument or conversation before they started beating on the car?

A. No; there was nothing. We were just sitting there, and all of a sudden the windows started to crash.

Q. When did you first see these men that approached the car and smashed the windows?

A. Well, you could not really see the windows—they were shattered, and the car door was open, and he did not have a chance to close the door, and the one who was hitting him, and I did not look to the other side.

Q. What did these people do when they hit the window?

A. They ran.

Q. Did you recognize any of them?

A. No; I did not.

[fol. 129] Q. Were you frightened?

A. Well, yes.

Mr. Davis: You may inquire.

Mr. Warren: Your Honor, we move to strike her testimony, on the grounds it relates to events subsequent to the filing of both the original and the amended bills of complaint; and on the further ground that her testimony does not tie in at all with anything relating to the Sherry Frontenac. She saw this condition out there, but she cannot tie it in with anything that relates to the Sherry Frontenac and the picketing.

While the testimony of the other man conceivably—only conceivably—might have some relevancy here, there is absolutely a gap between her testimony and anything that happened there, totally unrelated and absolutely isolated.

All that this young lady knows, or for all that she said, that the events could be totally unconnected with any picketing at the Sherry Frontenac.

I have not expressed it very well, but Your Honors can discern what I am driving at here.

Judge Carroll: Same ruling as to the other testimony. The ruling is reserved.

[fol. 130] Mr. Davis: I tender the witness.

Cross examination.

By Mr. Gettler:

Q. Were you sitting in the car when you first saw the men attacking the car?
A. Yes.
Q. Were the windows closed?
A. I think so; yes.
Q. Were you able to recognize any of the men at all?
A. All I know, one was short. I could not recognize him.
Q. It happened quickly and suddenly?
A. Yes.
Q. So, no one in your car could have recognized them?
A. If they knew them, they could have recognized them. I think Armando knows—would know who was hitting him.
Q. How long have you been at the Sherry Frontenac?
A. 11 days.
Q. Had you been there before the picketing started?
A. No. It was on when we came there.

Mr. Gettler: That is all.

(Witness excused.)

[fol. 131] Thereupon—ARLENE WILSON was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Arlene Wilson.
Q. Where is your home?
A. Chicago, Illinois.
Q. Are you a friend of Miss Rogan, the lady who just testified?
A. Yes, I am.
Q. You all work at the same place?
A. Yes.
Q. You both work for the Army, in Chicago?
A. Yes.

Q. You came down here with her?

A. Yes, I did.

Q. Did you accompany her, on last Tuesday evening or early Wednesday morning?

A. Yes, I did.

Q. Were you in the car when this altercation occurred?

A. Yes, I was.

[fol. 132] Q. Will you tell the Court briefly what you observed?

A. Well, we no sooner got in the car, and I was in the front seat with Armando, and I happened to be turning around, getting a cigarette from his brother, so I did not see anyone come up. All I heard was the glass, and I just hid my head, and the first thing I realized, somebody had the door open, and was standing with a coke bottle. He did not use the bottle, but he was holding it, and I do not remember too much about it.

Q. Is that on your side of the car?

A. Yes; I was sitting in the front seat.

Q. What happened after this occurred?

A. What happened after?

Q. Yes.

A. Well, I ran out of the car. I left the three of them in the car and by the time I turned around to see what was going on, they had already left. Armando was gone. He went to get the police, and Eileen and Roney were getting out of the car, but I do not know what you want me to tell you——

Judge Carroll: Speak louder, please.

By Mr. Davis:

Q. Did you go home?

A. Yes. Roney and the two of us—friends—and Eileen [fol. 133] and I went home in a cab, and they left us.

Q. Where do you live?

A. Chicago, Illinois.

Q. I mean, at Miami Beach.

A. Guest of the Sherry Frontenac.

Q. When are you leaving?

A. On Saturday morning.

Mr. Davis: That is all.
Mr. Gettler: No questions.

(Witness excused.)

Mr. Warren: Your Honor, we make the same motion as to her testimony, as we did to the other companion, on the same grounds.
Judge Carroll: Same ruling.

Thereupon—PETER PAPPAS was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Peter Pappas.
Q. Are you a resident of Florida?
A. Yes.
[fol. 134] Q. What is your occupation?
A. Waiter.
Q. Where?
A. I am employed at the Sherry Frontenac.
Q. How long have you been so employed?
A. Since the middle of December.
Q. December, 1954?
A. Yes.
Q. Were you working at the hotel prior to the time the picket line was set up?
A. Yes, I was.
Q. Was there, to your knowledge, ever a meeting called of the employees to determine, by secret ballot, whether they would participate in a strike?
A. Not to my knowledge.
Q. Are you a member of the union?
A. No.
Q. On the evening of April 24th, did anything unusual occur to you while you were working? I believe that would be last Saturday evening.

A. Yes. That was the night we—a few of my friends and I went out and got a few drinks at the bar.

Q. Speak up a little louder.

A. A few of my friends and I went out to the bar for a little while, to have a drink, and about 1:30 in the morning [fol. 135] I was approached.

Q. By whom?

A. By one of the old bartenders from the Sherry Frontenac.

Q. What is his name?

A. His name is Mike. I do not know what his last name is.

Q. Did you ever see him in the picket line?

A. I think he is a captain.

Q. A captain of the pickets?

A. I think so.

Mr. Warren: If I may make a motion at this time, we move to strike it. He thinks he is.

The Witness: He told me he was the captain.

Mr. Warren: I withdraw the objection.

By Mr. Davis:

Q. What did Mike say to you?

A. He wanted me to—he wanted to take me out and make sure that I should be out of the hotel before Thursday or today, and he said nobody would bother me before Thursday; but after Thursday, he could not promise anything.

Q. Now, to the best of your recollection, exactly what did he say to you on that occasion; what were his exact words, as best you can recall.

Mr. Brown: I object, on the ground it is hearsay testimony. This party that he is quoting, is not a party to this [fol. 136] action.

Mr. Davis: He is one of your people.

Mr. Brown: We ask to intervene, and we have not been granted that privilege yet.

Judge Carroll: Overruled.

By Mr. Davis:

Q. Will you tell us exactly what Mike said to you, as best you can recall?

A. Well, he called me to the side. He was with one of the other girls in the car, and as I approached the car, he called me and he said he would like to talk to me.

So he got out of the car and he walked over to my car with me, and he told me, he said, we are both Greek; we should stick together, and I should walk out of the hotel; I should not strike against him, and that I should be out before Thursday, because Thursday they had a big meeting.

I presume at the meeting they are having today—and that I should be out of there before Thursday; that after Thursday, he could not promise me that nothing would happen to me, but up until Thursday, he said nothing—that they had orders nobody should touch us or bother us.

Mr. Warren: Your Honor, I move to strike that on the ground it does not prove any violence. It is not a threat of violence, and it is nothing more than just a piece of negative [fol. 137] piece of testimony regarding what might happen after Thursday. It has no probative weight or force of any kind, and as I understand it, they are relying on violence here, and I do not reckon anybody could promise me assurances of what would happen after Thursday.

I do not know how to describe that. That does not sound to me like something that ought to be considered by Your Honors.

Judge Carroll: Motion denied.

Mr. Davis: You may inquire.

Cross examination.

By Mr. Brown:

Q. What hotel are you working at?

A. Sherry Frontenac.

Q. How long have you worked there?

A. Since December—the middle of December, 1954.

Q. Where have you worked before?

A. At the Nautilus.

Q. Now, sir, who was this person that you were talking about, that told you these things about what would happen after Thursday?

A. Mike. He was a bartender. I do not know what his last name is.

Q. The only name you know is Mike?

[fol. 138] A. That is all.

Q. Do you see him in the Court room?

A. No, sir; he is not here.

Q. How do you know Mike is a member of the Union?

A. He told me that he was.

Q. When did he tell you?

A. The night he spoke to me.

Q. What night was that?

A. The night of the 26th. I imagine that is what they said the date was.

Q. On the 26th of April, he told you he was a member?

A. I said I do not know what day it was. I do not remember what day it was.

Q. You do not remember what day he told you?

A. It was on a Saturday night.

Q. It was on a Saturday night?

A. Yes.

Q. Last Saturday?

A. Yes; last Saturday.

Q. He told you that you will have until Thursday—the coming Thursday—to get out of the Sherry Frontenac?

A. That is right.

Q. And did anything happen to you?

A. Nothing happened to me.

[fol. 139] Q. You have not been bothered?

A. Yes; I have.

Q. By what?

A. By several of the boys around.

Q. Have you been struck or attacked in any way?

A. No.

Q. You have gone to work every day?

A. Every day.

Q. Did anybody hold you or keep you from going to work?

A. Nobody.

Q. Did you ever see any fights on the picket line at the Sherry Frontenac?

A. No.

Q. You are there every day?

A. Well, the fights did happen—it was not in the daytime.

Q. You were there every day?

A. Yes; I am there every day.

Q. What time did you come to work?

A. 8:00 o'clock in the morning.

Q. Was that when a number of other employees go to work?

A. Yes.

Q. Did you go with them?

[fol. 140] A. I go in by myself.

Q. What time do you quit work?

A. 12:00 o'clock.

Q. At night?

A. Noon—A. M. or P. M.

Q. So, you work from 8:00 in the morning until noon, and then what do you do?

A. From 5:00 to 9:00.

Q. And you come back and work from 5:00 to 9:00?

A. Yes.

Q. And there are a number of others who do the same thing?

A. Yes.

Q. They all come and go?

A. At the same time? No, they do not.

Q. There are a number of others that work the same hours.

A. They all do work the same—all waiters and waitresses.

Q. So, they are all arriving and leaving at the same time?

A. Part of them stay in the hotel.

Q. Part of them stay in the hotel?

A. That is right.

Q. There are some others go home?

A. Yes.

[fol. 141] Q. And there is no difficulty; they have all come and left as they pleased?

A. With a little foul words, here and there.

Q. Have you used any foul language?

A. I never used any foul language. Why should I curse somebody out?

Q. That is excellent.

Mr. Brown: That is all.

Redirect examination.

By Mr. Davis:

Q. You come to work by yourself, you say?
A. No, sir.
Q. With whom?
A. Benjamin.
Q. Who is he?
A. Beatrice Benjamin.
Q. Who is she?
A. She is a waitress.
Q. You bring her to work?
A. Yes.
Q. How about these people that Mr. Brown brought out that stay in the hotel? Do you know why they stay in the hotel?
A. I know——

Mr. Brown: I object.
[fol. 142] The Witness: Yes, I know why.
Mr. Brown: I object; the best evidence are the people themselves as to what is in their minds. He cannot testify to that.
The Witness: I know.
Judge Carroll: Sustain the objection.
Mr. Davis: I would like to make this proffer of proof, that if the witness were permitted to testify, that he would testify, in view of his own knowledge that a number of employees in this hotel, stay in the hotel, and do not go home because of the incidents that they have witnessed in the picket line.
Mr. Brown: Now, Your Honor——
Judge Carroll: The proffer is denied.

By Mr. Davis:

Q. Was there any other occasion, Mr. Pappas that you were approached by any member of the picket line?

Mr. Gramling: I object, Your Honor. He has completed

with this witness, and we have crossed, and now if there is any redirect examination, in the scope—but now if we keep on continuing under a brand new——

Mr. Davis: I will withdraw the question. Come down. We will save more time.

(Witness excused.)

[fol. 143] Thereupon—HERBERT BULLARD was called as a witness on behalf of the plaintiff and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Herbert Bullard.
Q. Where is your home?
A. I live here, now.
Q. How long have you been a resident of Florida?
A. About six months.
Q. What is your occupation?
A. Bell boy at the Sherry Frontenac.
Q. How long have you been so employed?
A. I have been there about a week and a half.
Q. Now, on the morning of April 26th, did anything unusual happen to you while you were working there?
A. Yes, sir. There was one of the other bell boys and myself—we went to the Bel-Aire to bring some people over to the Sherry Frontenac, and while we were there this guy, which I saw him conversing with several of the pickets, and which was here just a couple of minutes ago started to take our pictures, and we did not know for sure what the purpose of it was for, and then he followed us back towards the hotel, and called us scabs and scads [fol. 144] and said that we would never work in Miami again, and then he took several of the pictures, and then as we got back to the hotel, we had another call to make so we asked Mr. Paul, one of the managers there to go back with us, and he did, and the same fellows took the picture again, and that one incident, and one other time we went

next door to the apartments, and some other fellow followed us up and down the street, and called us different names.

Q. Do you know who he was?

A. No. I would not know him. I did not pay too much attention to him.

Q. Did you ever observe him in the picket line?

A. Well, he was with them. I saw him conversing.

Mr. Davis: That is all.

Cross examination.

By Mr. Brown:

Q. You were in Miami six months?

A. About six months.

Q. Where did you come from?

A. Charlotte, North Carolina.

Q. And you have been at the Sherry Frontenac for a week and a half?

A. Yes.

Q. Where (sic) you before that?

A. Sun City Motel.

Q. You said that your picture was taken?

[fol. 145] A. Yes.

Q. A number of times?

A. Yes.

Q. It did not harm you, did it?

A. Well, it all depends on what the purpose of the picture was. I did not know what they were for.

Q. Do you know of any harm that came to you by reason of that picture being taken?

A. So far, none; no, sir.

Q. There was no physical harm that came to you whatsoever, was there?

A. Not physically, but maybe mentally.

Q. You were harmed mentally?

A. Well, wouldn't you be, if you saw him——

Q. Tell me——

Mr. Sibley: Let him answer the question.

Mr. Brown: I was asking a question.

By Mr. Brown:

Q. Tell me what mental harm you were suffering?
A. Not being too familiar with the strike, yes; I was a little worried.
Q. Because your picture was taken?
A. Well, of several of the other guys around there, that I have heard or heard them talking.
Q. Tell us what happened to you; not what happened——
[fol. 146] A. As I said, mentally, yes. I was worried.
Q. How are you mentally, today?
A. Well, still worried; yes, sir.
Q. About the same pictures?
A. About the pictures and the strike; yes, sir.
Q. Were you in the Court room when pictures were taken here today?
A. Yes.
Q. Were you worried?
A. I knew the purpose of those.
Q. You knew the purpose of that?
A. Yes.
Q. What was the purpose of the other pictures that were taken?
A. That I do not know.
Q. And you are worried about it?
A. Yes.
Q. You are worried because you do not know?
A. That is right.
Q. You have been going to work every day?
A. Yes, sir.
Q. You are not living in the Sherry Frontenac, are you?
A. No.
[fol. 147] Q. Has anybody prevented you from going to work?
A. No, sir.
Q. Has anybody attacked ... you went in?
A. No, sir.
Q. Or when you left?
A. No, sir.

Q. It was pretty peaceful?
A. Yes, sir.

Mr. Brown: That is all.
Mr. Davis: That is all. Come down.

(Witness excused.)

Thereupon—JOFFRE NASSOUR was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Joffre Nassour.
Q. You are a resident of Florida?
A. Yes, sir.
Q. What is your occupation?
A. Cook.
Q. Where do you work?
[fol. 148] A. Casa Blanca Hotel.
Q. How long have you worked at the Casa Blanca Hotel?
A. About four years.
Q. You were working at the Casa Blanca Hotel at the time the picket line was set up?
A. What?
Q. Were you working there at the time the picket line was put up?
A. No. I was coming in to work, and they formed a picket line about five or ten minutes before I walked in.
Q. You were working there before that time?
A. Oh, yes.
Q. You were employed?
A. I was there about four years.

Judge Crawford: Is that the Casa Blanca Hotel?
Mr. Davis: Yes, sir.

By Mr. Davis:

Q. Are you a member of the union?

A. No, sir.

Q. Was there ever a meeting of the employees of the Casa Blanca Hotel determined by secret ballot where a majority of such employees would want to participate in a strike?

[fol. 149] A. Not that I know of.

Q. If there had been, at the Casa Blanca, what would you have—would you have known about it?

A. I am sure I would.

Mr. Gramling: Please speak up.

By Mr. Davis:

Q. Since the picket line was thrown up, has anything unusual occurred to you and your work?

A. Well.

Q. Has anything happened to you?

A. Since the picket line, I stayed in the hotel.

Q. You were living in the hotel and staying there?

A. Since the first day they started picketing.

Q. Why?

A. Because I do not want no trouble—what will happen.

Mr. Gramling: If Your Honor please, I object to this as to why does he stay at the hotel; why he stays in a wigwam is of no consequence—if what we are trying to do is explore a frame of mind.

That certainly has nothing to do with the specific allegations made in the complaint, and the amendment to the complaint.

[fol. 150] In other words, he can contribute nothing to it, or to the issues to ask a man why he stays in a hotel.

Judge Carroll: Overruled.

Judge Floyd: He said that he did not want any trouble.

Mr. Warren: Did he say——

Judge Cannon: And then he started to say he knows those guys.

The Witness: I say, I knew what would happen.

By Mr. Davis:

Q. Before the picketing started at the Casa Blanca, did you go down to work temporarily at the Saxony Hotel?

A. Yes.

Q. Did anything happen to you there?

A. Well, we had a—to go through—I had to go through—

Q. Louder.

A. I had to go through the front, because they were picketing, and I did not want to go through the side entrance. I did not—I wanted to go through the front entrance figuring that they may figure me as a guest. I did not want any trouble from them.

Q. What happened, if anything?

A. Nothing specifically there.

[fol. 151] Q. Now, on Friday after the picketing started at the Saxony Hotel, did anything happen to you then?

A. At the Saxony?

Q. At the Casa Blanca?

A. Well, I was—the day that I was going into the Casa Blanca and they started the picketing, and I was walking down, and just as I got to the picket line, I was pointed out.

Q. Who pointed you out?

A. One of the union men.

Q. Do you know who he was?

A. Yes.

Q. Who?

A. Pinky.

Q. Did you know Pinky before?

A. Yes.

Q. How did you know him?

A. He was a waiter at the Casa Blanca.

Q. Is he one of the picket captains?

A. Evidently he must be.

Q. If you know—is he in the picket line; was he in the picket line then?

A. I think I saw him picketing once.

Q. Does he work with the pickets?

A. Yes.

[fol. 152] Q. What did he say or do?

A. Well, just as I approached the picket line, he said, "That is the guy," and pointed at me, and some other person and I went across the picket line, and somebody yelled over to me and said, "Hey," and I turned around and just as I turned around, a fellow snapped my picture.

Mr. Warren: Your Honor, I move to strike that testimony, on the ground that it does not tend to prove anything, as to whether it is a right or not that they take your picture, whether you want them to or not.

I do not know of any harm. Most people make an effort to get their picture taken. I know I do. I want to get it taken more than once and that does not prove anything at all. I move to strike it, on the ground it just does not prove a thing.

Judge Carroll: Motion denied.

By Mr. Davis:

Q. Joffre, on the morning of April 19th, did anything happen to you; that is, when you went home? You testified, on an occasion, on Wednesday, now, four days after that; did anything happen to you?

A. Well, I was working in the coffee shop, and I worked pretty hard, and three days, and I do not know how many days later, but I was staying in the hotel all along, and [fol. 153] so I was doing all work, and I was bussing and doing—run to the store room, and I was doing all work, and I was tired, and I was wearing the same clothes all the time, so I figured there was about 10:00 or 10:30—I forget what time—around that time, and I figured I would take a buddy across the street, and I would go ahead and get a change of clothes, and maybe bring a few things back with me, and keep them in my room in the hotel, so I walked up the coffee shop steps and walked north, under the Casa Blanca sidewalk, and I must have gotten about one-third of the way, and one of the captains or—I do not know who he was—I know him from the hotel—he used to be a waiter there.

Q. What is his name?

A. Al Cohen, and just as I was walking up the street, he crossed the street from the gas station, directly across from the hotel, and just as he got on the sidewalk, we practically came face to face, and he called me a——

Q. Tell the Court what he called you.

A. He called me a "fucking scab" and took a swing at me, and I swung back, and we tangled and we wound up

in the gutter, and I went into the hotel, and came back out again, and there was a sergeant there, and I told him the story.

Q. A police sergeant?

A. A police sergeant, and we wound up arresting each [fol. 154] other.

Q. Who was your friend that was with you when that happened?

A. Some bus boy that works in the coffee shop—Dennis.

Q. This fellow who took a swing at you, Al Cohen, did you know him before?

A. Yes.

Q. He used to work in the hotel?

A. As a waiter.

Q. Did you see him on the picket line with the pickets?

A. I cannot recall him as a picket, but—well, he might be a captain. He seems to be in charge of walking back and forth.

Mr. Warren: We move to strike that. He said he seems to be in charge. He was walking back and forth.

Judge Cannon: He said he seemed to be in charge. Proceed.

Mr. Davis: That is all.

Cross examination.

By Mr. Brown:

Q. What time did this last incident occur?

A. In the morning, before noon, about 10:30, I would [fol. 155] say.

Q. What were your duties at 10:30?

A. Well, I worked all around. I was a bus boy, and went to the store room.

Q. What were you doing immediately prior to coming out of the hotel?

A. Working around the coffee shop.

Q. Doing what?

A. Bussing and everything that I could possibly do. I did everything I could for the hotel.

Q. Who was in charge of the room?

A. Well, we all are in charge. I was in charge, and a couple of the other people were in charge.

Q. There was no manager of the coffee shop?

A. Well, I do not know how to answer that one. I manage it at night, and somebody else managed it during the day.

Q. Who was in charge at 10:30 in the morning when you came out—you or someone else?

A. Well, part me and part other people.

Q. And part who else?

A. Well, the day girl was there, and she is in charge, too, and some of the bosses were there and they are in charge.

Q. And whom did you ask for permission to leave the [fol. 156] hotel?

A. I do not need no permission.

Q. You can go and come back as you please at any time?

A. Yes.

Q. That is your working arrangement?

A. No. I can leave any time. I do not have to ask anybody about leaving the coffee shop.

Q. I mean, to leave the hotel. You left——

A. To leave the hotel, yes. I can leave any time I want to.

Q. You did not have to get permission to leave the hotel?

A. No, sir.

Q. It has always been——

A. If I am there, I am working as a cook, and I manage it at night, and any time I am there cooking, I cannot leave my job and go across the street to my apartment but it is just—I was bussing, and I got fed up, and I was tired, and I wanted to get some clothes during the daytime.

Q. And with whom did you talk in management about leaving the hotel at all; did you talk to someone before you left?

A. No.

Q. Nobody at all?

[fol. 157] A. I just asked Dennis to come along with me—my bus boy.

Q. You did not ask anybody connected with management of this hotel for permission to leave, or told them that you were going, at 10:00 o'clock in the morning?

A. No.

Q. Did you have any conversation with Mr. Saul Cohen about this incident before it occurred?

A. No, sir.

Q. Didn't you have a conversation with Mr. Saul Cohen about you provoking some picket line disturbances, and did he not ask you to do that?

A. I do not understand.

Q. Did Mr. Saul Cohen ask you to get into some fight in the picket line?

A. No.

Q. You are under oath.

A. I am under oath.

Q. How much were you paid to do that?

Judge Cannon: Do not cramp him. Do not fight him.

By Mr. Brown:

Q. How much did you receive for what occurred?

A. I received nothing.

Q. You did not receive any money for this?

[fol. 158] A. No, sir.

Q. Has your case been tried?

A. No, sir.

Q. You said you each swore out warrants?

A. It has not been tried.

Q. Have you ever been arrested before?

A. No, sir.

Judge Cannon: Before he is arrested now——

Mr. Brown: Yes. He is arrested right now.

By Mr. Brown:

Q. Will you tell this Court your connection with a $200,000.00 jewelry robbery in Richmond, Virginia?

A. I do not know anything about it.

Q. You never heard of it.

Judge Carroll: What was your question?

Mr. Brown: I ask him to tell the Court his connection with a $200,000.00 jewelry robbery in Richmond, Virginia.

Mr. Sibley: I object. Counsel may ask him if he has been convicted of a felony, and if he has, he may ask him.

Judge Carroll: It is——

Mr. Brown: He said he was here.

Judge Carroll: The question as to whether he was arrested—we ruled out a lot of charges on the theory that [fol. 159] an arrest on charges may be on an unfounded basis. If you want to ask him about convictions, you may do so.

Mr. Brown: I am going to try to test his credibility. I withdraw the question concerning the arrest.

By Mr. Brown:

Q. Did you ever know a Mr. Pinkerton?
A. No, sir.
Q. You never heard of a Mr. Pinkerton?
A. I heard of him. I do not know him.
Q. Do you know Mrs. Pinkerton?
A. Pinkerman.
Q. Pinkerman?
A. Yes.
Q. Do you know her?
A. Yes.
Q. How well?
A. I know her well.
Q. Under what circumstances?

Mr. Sibley: I object, upon the ground it is not in cross examination of anything brought out on direct examination.

Mr. Brown: It goes to his creditibility, (sic) as I will show it when I connect it.

[fol. 160] Judge Carroll: Overruled.

By Mr. Brown:

Q. How well did you know Mrs. Pinkerman?
A. Well——
Q. Tell us what your relationship was.
A. I met her in Richmond, Virginia.
Q. Is it not true that you lived with her?
A. Yes——

Mr. Sibley: Wait a minute. I object to that, on the grounds it is immaterial and irrelevant and——

Judge Cannon: Sustained.

Mr. Brown: Your Honor——

Mr. Sibley: Just a minute——

Mr. Brown: I heard your objection.

Mr. Sibley: He is shouting at me. Your Honor, he is not—I object, upon the ground it is immaterial and irrelevant, and improper cross examination, and it is not in cross of anything brought out on direct examination.

Judge Carroll: Sustained.

Mr. Brown: May I be heard?

Judge Carroll: Sustained.

By Mr. Brown:

Q. Is it not true that Mr. Pinkerman was in jail in connection with a $200,000.00 jewel robbery while you were living with his wife?

[fol. 161] Mr. Sibley: I object to that, upon the ground it is immaterial, irrelevant, and it is a direct violation of the Court's ruling, and it is improper cross examination, and counsel should be reprimanded.

Judge Carroll: Sustained.

Judge Cannon: I am going to ask that counsel give up on the Pinkerman question—period.

Mr. Brown: If that is the Court's——

Judge Cannon: Let the record reflect it. Proceed. Let the Pinkermans alone.

By Mr. Brown:

Q. You stated that your picture was taken as you were leaving or entering the Saxony.

A. No, sir.

Q. When was that?

A. When I was entering the Casa Blanca.

Q. Did you suffer any harm or inconvenience thereby?

A. No, sir. What do you mean, physically?

Q. Yes.

A. No; but it worried me.

Q. You were worried about that.

A. Well, I do not know what you mean, but I was worried. I was wondering why they took a picture of me, and stuff like that. I know it is not because they like my looks.

[fol. 162] Judge Cannon: That is right.

Mr. Brown: Your Honor, I am through.

Mr. Davis: Come down.

(Witness excused.)

Judge Cannon: We are not recessed. Be seated.

Judge Carroll: Let us get the attorneys up here.

Judge Cannon: All interested parties will remain seated until we decide on the next session.

(Thereupon a conference was had between the Court and the counsel at the Bench, out of the hearing of the Reporter.)

(Thereupon a short recess was taken, after which the following proceedings were had.)

Judge Cannon: All witnesses interested in this case will return tomorrow night at 7:00 o'clock, in this same room.

(Thereupon the hearing was recessed until Friday, April 29, 1955, at 7:00 o'clock P. M.)

[fol. 163]

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA. IN CHANCERY

No. 178554-D

[Title omitted]

Miami, Florida
Friday, April 29, 1955.

The above-entitled cause came on for further hearing before the Hon. Charles A. Carroll, Division D; Hon. Grady L. Crawford, Division F; and Hon. Robert L. Floyd, Division J, Judges of the above-styled Court, at the Courthouse,

Miami, Florida, on Friday, April 29, 1955, at 7:00 o'clock p.m., pursuant to adjournment on Thursday, April 28, 1955.

[fol. 164]

COLLOQUY BETWEEN COURT AND COUNSEL

Judge Crawford: Gentlemen, Judge Cannon will not be present at this evening's session, and I do not believe he will be present tomorrow. He has assigned the cases numbered 178858, and 178666 to me, to be handled with the two assigned to my division.

Judge Carroll: Is the plaintiff ready to proceed with additional witnesses?

Mr. Sibley: Do I understand, your Honor, that Judge Cannon has withdrawn from the cases?

Judge Crawford: No, sir. He said he could not be present tonight, and I asked him what he wanted to do with the cases, and he asked if I would take them, and I said I would.

He said he would have Judge Holt assign them to my division.

Mr. Sibley: Have they been assigned by the senior Circuit Judge?

Judge Crawford: They have not. He was not present today, so I have taken no action, except to bring them here with me and to be here, myself.

Judge Carroll: I might say that Judge Cannon informed us yesterday that he did not think he would be able to arrange to be here tonight, but that he did not wish to hold up the proceedings.

[fol. 165] Mr. Sibley: I am disturbed that Judge Cannon said that he would not be here tonight, but that he would hear the cases any time today, and then he said he would try to be here tonight, and for that reason we did not proceed with his cases before him today.

Until the cases are assigned, I feel that they should remain before Judge Cannon.

Judge Crawford: It is perfectly all right with me. If there is any objection to the re-assignment, it should properly be taken up at the time a motion is made to re-assign them before the senior Circuit Judge.

Mr. Sibley: All right. We will go ahead.

Judge Floyd: I might say that the two cases I am here for Judge Gordon are not assigned and I am sitting as his alternate.

Mr. Sibley: I understand that is correct, which is appropriate under the rules.

Mr. Warren: Your Honor, would it not be possible to stipulate, into the record, that this is satisfactory with counsel on both sides, that we are willing to have it done, if it is, and that the formal order of Judge Holt be approved as and when made?

[fol. 166] Judge Crawford: If it is possible to stipulate, it is perfectly all right.

Mr. Sibley: I am unwilling to stipulate.

Judge Crawford: You are not?

Mr. Sibley: I am not willing to stipulate.

Mr. Warren: Your Honor, we would like to announce, into the record, that on behalf of the defendants, we have complete confidence in the Court, as now constituted, with the absence of Judge Cannon, that we are willing to stipulate that the cases Judge Cannon heard at the first session now be heard by your Honor, Judge Grady L. Crawford; and we are willing to stipulate further that the cases originally assigned to Judge J. Fritz Gordon, and in his absence on assignment in the Leon Circuit Court, heard at the first session by Judge Robert L. Floyd, that those cases continue to be heard by Judge Floyd, and we are willing to stipulate in the absence, at this time, of a formal technical order of assignment from Judge George E. Holt, that the defendants will consent and agree to the issuance of that order, at any subsequent time in these proceedings.

That is a motion, and I just make this one observation, that it is my understanding of the law, that anything not prohibited by law can be legally and appropriately stipu-

[fol. 167] lated by the parties to the litigation, acting through their counsel.

Judge Floyd: Regardless of that portion of your proffer and stipulation relating to the two cases in Judge Gordon's division, it would not require a stipulation.

Under the Rules, an alternate can hear the cases, appropriately without stipulation of his alternate, and of course,

the Court, with additional notice that Judge Gordon is not available, and he is in Tallahassee. With regard to the other part, you can require a stipulation, and counsel can state that he is unwilling to stipulate.

Mr. Warren: Would the Court permit me to make this further observation? It was represented—and I heard it stated at this hearing yesterday—that this matter was of an emergency nature, and required quick action, and I understood that observation to have been made by Judge Cannon, himself; and I understood that it was the position of counsel for the plaintiff; and in view of that, we hope that we may proceed as though an emergency had existed, whether it does or not.

Judge Crawford: Under the Division system, and the announcement that we made when we first started to hear these cases, sitting together, I think the proper method to [fol. 168] follow would be to have the Senior Circuit Judge make the re-assignment, if one is made.

Since Mr. Sibley wishes to follow that, we will go ahead at this time; and as far as I am concerned, I am now only concerned with the two cases that are assigned to my Division.

If the other cases are later assigned to my Division, I will undertake their consideration at that time.

Mr. Sibley: I would like to state, into the record, that I have every confidence in Judge Crawford. Two cases have been submitted to Judge Cannon, and he has ruled upon the evidence, and has particularly and peculiarly listened to the evidence of his own cases, under the understanding as announced by the Judges now sitting; and in view of the fact that we are in the middle of the hearings, insofar as his cases are concerned, I must insert (sic) that until he disqualifies himself, that he proceed with the hearing.

Mr. Warren: Would you permit me to make a motion?

Judge Carroll: Let me——

Judge Crawford: I would be glad to have you continue this exchange back and forth, but the decision is made.

[fol. 169] Judge Carroll: I think the position of counsel is clear, and the action on this could better be reserved until the time when the motion is made for the transfer to another Division, if that is the case, so let us proceed.

Are you ready, Mr. Sibley, to proceed?

Mr. Sibley: Yes; I am ready.

Judge Carroll: Call your next witness.

Mr. Warren: Your Honors, could I ask for clarification of the ruling? By that ruling, am I correct, or are we correct in understanding that no evidence relating to the Casa Blanca and the Sea Isle, being cases numbered 178666 and 178858 will be introduced at this hearing; will that be the effect of it, your Honor?

Judge Carroll: Well, I do not think so. The only effect that I know is that the Judge is not here to hear whatever is introduced. What effect it has, I do not know.

Mr. Sibley: I would like, at this time, your Honors, to ask for a three minute recess in order to re-arrange my witnesses. I had started with the Casa Blanca witnesses, and I intended to put that on first, and I would like to re-arrange those witnesses.

[fol. 170] Judge Carroll: Granted.

Mr. Brown: May I ask a question? Is Judge Crawford the alternate for Judge Cannon?

Judge Crawford: No, sir.

Judge Carroll: Motion granted.

Mr. Sibley: Who is the alternate for Judge Cannon?

Judge Floyd: Judge Giblin.

(Thereupon a short recess was taken after which the following proceedings were had.)

Judge Crawford: Gentlemen, I just talked to Judge Cannon by telephone, and he states that since there has been some objection to the original proposal, that he suggests that we go ahead with the hearing, as outlined by Mr. Sibley, and just omit from consideration these two cases that are assigned to his division, and he will consider them at a later time; or if they should be consolidated, they can then be assigned to one of the three Judges here.

Judge Floyd: What two cases did he have?

Mr. Sibley: The Case Blanca and Sea Isle.

[fol. 171] Thereupon—JERRY WITTELS was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Jerry Wittels.
Q. Where do you work, and what do you do?
A. I am steward at the Casa Blanca Hotel.
Q. How long have you been so employed?
A. About three years.
Q. Will you state whether or not you are acquainted with a man named or known as Pinky?
A. Yes.
Q. Where did you know him?
A. He was a waiter at the Casa Blanca.
Q. He worked there prior to the time that the——

Mr. Gramling: Pardon, me, Mr. Davis. Now, I am completely confused. I thought we—excuse me—I do not mean to take the floor. I just mean to inquire of you, and through the Court—I thought we decided that we were going to eliminate matters of the Casa Blanca and the Sea Isle, and now I see that you start off with a witness from the Sea Isle—Casa Blanca.

Are you going to pursue the Casa Blanca?

Mr. Warren: I understand the ruling of the Court that [fol. 172] they were to be excluded.

Judge Floyd: Let us hear from the other side.

Mr. Sibley: May I say a word?

If your Honors please, it is our contention—and I stated it at the outset of this hearing—that an industry on Miami Beach now is being assaulted by one union, and it is true that there are nine picket lines, and we shall attempt to show that this union, by reason of its background of threats and intimidation and violence, has forfeited its right to maintain this assault upon this industry.

Now, the Supreme Court of Florida has passed upon a stipulation similar to the one here involved.

Judge Carroll: Mr. Sibley, we will save you some time. We are not going to restrict you in your evidence. If you think it is material, subject to objections, to particular questions, you may proceed.

Mr. Sibley: All right.

Mr. Warren: Your Honor, if I may understand this situation, so I will know what to object to, and what not to object to—I understood, after a request for clarification as to whether or not the Casa Blanca and the Sea Isle cases would be heard in the absence of Judge Cannon, I had understood that Judge Crawford ruled that testimony re-
[fol. 173] lating to those hotels would not be admissible here tonight, because Judge Cannon, to whom they were assigned and who would make the decision, was not present.

So, in the interest of saving my making unnecessary and out of order objections, could I make this inquiry of the Court, please?

Is testimony in the Casa Blanca and Sea Isle, which cases are assigned to Judge Cannon, and which we understand, are still assigned to him, is that to be admitted here in his absence?

Judge Carroll: Well, as I understand it, if there was any particular special facts or evidence that related to those two cases, there would be no need to put that on; but that does not mean that anything which may bear on those properties or locations would necessarily be excluded, if counsel has some reason to feel that it gives some evidence on the general picture or the effect of the other cases.

Mr. Warren: Thank you, sir.

Judge Carroll: You may proceed.

By Mr. Davis:

Q. Mr. Wittels, I will ask you whether or not you had a conversation with a man known as Pinky on Sunday evening, April 17?

A. Yes, sir.

Q. What was that conversation, and where did it take place?

[fol. 174] A. Pinky was walking the picket line, in front of the north side of the Casa Blanca, where the employees go

in and out, where the employees check in and out from work and it was in the evening about—I think it was about 6:00 o'clock.

Q. What transpired?

A. Well, the conversation was—I cannot remember the entire conversation—but I do remember there was a friend of mine and myself, and myself, and another fellow who walked out there, and Pinky was walking up and down, and he was a picket that day, and I worked with Pinky, and I knew him, and we started talking, and when I walked out, evidently I looked tired, and he said, "You look awful tired"——

Mr. Brown: May I interpose an objection, your Honor. The testimony so far is that this incident occurred on the picket line in front of the Casa Blanca, and the testimony is heresay, (sic) to begin with; but testimony concerning a conversation between a steward of the Casa Blanca and a certain Pinky, name unknown, who has something to do with the Casa Blanca—probably a former employee, and obviously related only to the Casa Blanca, and under the rule announced at the very outset of the trial, the evidence pertaining to each case peculiar to each case would be taken into consideration only by the Judge who was concerned with that particular case.

[fol. 175] The Judge concerned with the Casa Blanca case is not present. So, under the rule announced at the outset and repeated again here concerning this evidence——

Judge Carroll: We note where you say the testimony obviously relates to somebody. We do not know what the testimony is.

Mr. Gramling: Well, sir. The previous testimony fastened Pinky down on this very occasion to the picket line, to this very incident that he is talking about.

He is talking about the same Pinky that Joffre Nassour testified about, and that is the witness that you will recall who said he walked past a friend of his, Pinky, who said, "That is the guy", and they took a picture.

Now, this is the same picket line, the same place, and the same time and the same thing.

How this ties in, for instance, Judge Carroll, with your Saxony case, or Judge Floyd with your Roney Plaza and

Sans Souci, or the Sherry Frontenac, or Sorrento Hotel; or Judge Crawford, the Monte Carlo and Algiers—I fail to see how it is in support of the testimony of their witness, Joffre Nassour, who testified only pertaining to the picket [fol. 176] line of the Casa Blanca.

Judge Carroll: Objection overruled, without prejudice to move to strike it if it appears immaterial.

I think he was interrupted right in the middle of the answer. You may have to re-orient the witness.

By Mr. Davis:

Q. What was the conversation between you and Pinky on that occasion?

Mr. Brown: Objection, on the ground of heresay. (sic)

Judge Carroll: Overruled.

A. As I was saying, when I walked out, he made a remark that I looked very tired, and I said, "No; I am not too tired, Pinky, because we have quite a few loyal employees that are still with us," and he said, "Yes." He said, "That is too bad those rat bastards like Joffre are causing us trouble," but he said, "He is smart. We will get him."

He said, "Though we will break his back", and then we drifted off to something else, and through the conversation, it was pertaining to that.

Q. I will ask you whether or not he made any statements to you as to why they were after Joffre?

A. Yes. He said, "It is bad enough that he was working in the Casa Blanca after the walkout," but he said, "It is [fol. 177] even worse when he goes down to help out the Saxony."

Q. Do you know whether or not Pinky was a picket captain?

A. Well, it appeared to me that he was, because he put the picket signs on the people, and took them off, and it appeared to me that he assigned the pickets.

Q. Do you see the man known as Pinky in the room tonight?

A. Yes.

Q. Will you point him out?

A. Sure.

Q. Which one is it?

A. The gentleman over there in the red tie, and the blue jacket, and the light gray pants.

Mr. Davis: You may inquire.

Mr. Brown: I renew my motion to strike, on the ground the testimony only related to the Casa Blanca.

Judge Carroll: Denied.

Cross examination.

By Mr. Brown:

Q. What is your capacity at the Casa Blanca?

A. I am the steward.

Q. How long have you been a steward?

A. About three years.

[fol. 178] Q. As such, are you in a supervisory capacity; do you have other employees working under you?

A. Yes.

Q. How many?

A. Approximately 35.

Q. Have you come and gone each day to work, or are you living in the hotel?

A. I come and go; yes.

Q. What time do you come to work?

A. Between four and six in the morning, or 6:30.

Q. What time do you leave?

A. Anywhere from 6:00 in the evening to 1:00 o'clock in the morning.

Q. Now, when you come—when you arrive in the morning, do other employees arrive at the same time?

A. No; because my job there is not any specific hours to my job. My work, when my work is done—some days I might only have three or four hours work, and it just depends.

Q. I am relating to the time of your arrival. Are there other people employed in the hotel who arrive at the same time?

A. I do not know what you mean, because I have no specific time to arrive. There are people arriving at all different times, and there are different shifts.

Q. During the time that you have been going to work since the picketing started, have you been molested or [fol. 179] stopped from entering the hotel on any occasion?

A. No.

Q. Have you been prevented from leaving the hotel on any occasion?

A. No.

Q. Has anybody assaulted you or struck you?

A. No.

Q. Have you seen anybody struck or assaulted at the Casa Blanca Hotel?

A. I have seen intimidation.

Q. I just asked you a question. Answer it.

A. I answered it.

Q. Have you seen anybody struck or assaulted at the Casa Blanca?

A. Physically, no; mentally, yes.

Mr. Gramling: We move to strike that as being unresponsive to the question.

Judge Carroll: Motion granted.

By Mr. Brown:

Q. Of the 35 people that were under you, were there 35 people under you before the walkout occurred?

A. Yes.

Q. Of those 35, how many of them are out on the picket line and in protest?

A. I would say around 20.

Q. Are they members of the union to your knowledge? [fol. 180] A. I do not know.

Q. Do you know whether any of them are?

A. I do not know.

Mr. Brown: That is all.

Mr. Davis: Come down.

(Witness excused.)

Thereupon—DENNIS BYRD was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

By Mr. Davis:

Q. Please state your name.
A. Dennis Byrd.
Q. Where do you work? What do you do?
A. I am a bus boy at the Casa Blanca.
Q. How long have you worked there?
A. I have been there for about two weeks now.
Q. What, if anything happened to you on Monday, April 18, at approximately 11:30 in the evening?
A. Steve—this friend of mine—and I got off, and we decided we would go out—to go to the drug store.
Q. Speak a little louder, please.
A. And we went out to the service entrance, and as we were walking out, there were five pickets walking down the sidewalk, and two of them—I think two of them in the bunch were wearing cards on them, and they pointed us out as [fol. 181] soon as we walked up, and said, "There come two of the scabs right now", and said "We will just have to bash their heads in for them."

And we were going to turn to the left, but they were blocking the sidewalk, and we had to turn to the right to go on up. I would say it was five of them in the bunch.

Q. Now, what if anything, happened to you, or perhaps happened in your presence on Tuesday, April 19, shortly before 10:00 o'clock in the morning, that is the following day.

A. Well, Joffre Nassour asked me to go across the street with him to his apartment to get his clothes, and he said he had not changed clothes in about three days, and he wanted me to go along with him, and I did not much blame him, after what they told me, and I was the same way. I wanted someone to go along with me, and I told him all right—we were not busy, and we went outside, out the side entrance at the coffee shop, and we were walking down the sidewalk, I noticed a man coming across the street, and he met us about middleways of the Casa Blanca, and when he got right to us—shall I repeat what he said?

Judge Crawford: Answer the question.

A. (Continuing) Well, he looked at Joffre and he said, "That fucking scab," and he swung at him, and they went down, and when they went down I whirled around. I thought maybe one would grab me, and I did not see any, and then I turned around and broke up the fight.

[fol. 182] There was another fellow coming in and help me, then, we walked back in the coffee shop, and Joffre went back to the door, and there was a police car there, and he went out to the police car, and I went back with him.

Q. Did you say this picket came across the street to meet him?

A. Yes.

Mr. Davis: You may inquire.

Cross examination.

By Mr. Brown:

Q. How long have you worked at the Casa Blanca?
A. About—I would say nearly two weeks.
Q. How long?
A. I started the 18th.
Q. The 18th of what month?
A. This month.
Q. Where did you work previously?
A. I was working in Mobile, Alabama.
Q. In Mobile, Alabama?
A. Yes.
Q. When did you leave Mobile, Alabama?
A. I left Mobile about a month ago.
Q. How long have you been in Miami?
A. I have been in Miami about three weeks now.
Q. Speak louder, please.

[fol. 183] A. Nearly three weeks, now.

Q. Did you ever work at the Casa Blanca before?
A. No, sir.
Q. Have you been working at the Casa Blanca steadily since the picketing started?
A. Yes, sir.
Q. Has anybody bothered you in your going or leaving?

A. I have not been out, because they told me that, and I am not going out.

Q. You went out the time the fight occurred?

A. I had somebody with me, too.

Q. How did you happen to come out?

A. He asked me to go out with him, and I do not blame him. If I would have gone out, I would want somebody to be with me.

Q. You have not been out of the Casa Blanca since the 18th, excepting for this one occasion?

A. That is right.

Q. Not one day——

A. No, sir.

Q. Did you know that people had been coming to and leaving the Casa Blanca every day without being molested; did you know that?

A. Usually when somebody tells me something, I believe [fol. 184] them. I do not take a chance.

Q. Answer the question.

A. No, sir; I guess——

Q. Do you know that people have been entering and leaving the Casa Blanca without being molested?

A. I guess they have.

Q. Do you know it or not?

A. No, sir; I do not.

Q. Have you ever heard of anybody being molested in entering or leaving the Casa Blanca?

A. Yes. I heard quite a bit.

Q. Who?

A. Quite a few of them. I do not know all of their names.

Q. Do you know one?

A. Well; yes. I heard them talk. I have a friend of mine who was with me, Steve. He was with me that night.

Q. Was he hurt?

A. Neither one of us was hurt.

Q. You do not know—as a matter of fact, you do not know of a single person, since the 18th of April, that has been hurt, disturbed or bothered in any way, because he entered or left the Casa Blanca, do you?

A. I think Joffre was hurt a little, and I know of another man. I do not think it was in the hotel, but I think he was [fol. 185] hurt.

Q. Do you think he was hurt?

A. Yes.

Q. Did he make an arrest or charge to the police?

A. I do not know.

Q. What is his——

A. I do not—I do not have the information on that.

Q. But on this one date, despite the fact that you have not left the building, and not heard of any real disturbance at the Casa Blanca since the 18th, on this one day you needed a bodyguard to go out?

A. I was not a bodyguard, and he was not a bodyguard.

Q. As a matter of fact, was it not pre-arranged for you to go out with Joffre Nassour?

A. No, sir.

Q. It was not pre-arranged?

A. No, sir.

Q. Didn't you have some idea that there was going to be —that something was going to take place?

A. He wanted to get his clothes. That is all I know.

Q. And he needed your help?

A. He wanted me to go along with him; yes, sir.

[fol. 186] Q. What was your occupation before you came to Miami?

A. I worked in a laboratory for the International Paper Company.

Q. You worked where?

A. In a laboratory for the International Paper Company.

Q. What did you do in the laboratory?

A. I was a tester.

Q. With what company?

A. International Paper Company.

Q. Do you have a police identification card?

A. No, sir; not at the present time.

Q. You do not have one?

A. No, sir.

Q. You are working at the Casa Blanca?

A. Yes, sir.

Q. Is that one reason that you have not come out of the Casa Blanca since the 18th, except for this one occasion?

A. No, sir. The only reason I do not have a police identification card is because I was scared to go out. I was going.

Q. You are out of the Casa Blanca right now. Are you afraid of anything?

A. Well, I do not like it too well.

[fol. 187] Q. Do you feel intimidated here?

A. Not in here; no, sir.

Q. You do not?

A. No.

Q. Would it bother you or disturb you to get a police identification card now?

A. No, sir; not at all.

Q. You intend to?

A. Yes, sir.

Q. Have you ever been arrested?

A. No, sir.

Mr. Sibley: I object to that.

Judge Carroll: Sustained. Counsel is reminded of a ruling about people who were arrested or convicted.

Mr. Brown: I regret that.

By Mr. Brown:

Q. Have you ever been convicted of a crime?

A. No, sir.

Q. Have you ever worked as a strike breaker anywhere else?

Mr. Sibley: I object to that, upon the ground it is immaterial and irrelevant.

Judge Carroll: Sustained.

By Mr. Brown:

Q. What are your duties in the Casa Blanca?

A. I clear the tables.

[fol. 188] Q. Do you have a food handler's health card as required by law?

A. Yes, sir.

Q. You do have that one?

A. Yes, sir.

Q. How did you get it?

A. I got it in the hotel.

Q. The hotel gave it to you?

A. No, sir. They had a nurse in the hotel that took the blood tests for us.

Mr. Brown: That is all.
Mr. Davis: That is all. Come down.

(Witness excused.)

Thereupon--VERA LUCK was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Vera Luck.
Q. Where do you work? What do you do?
A. Casa Blanca. I am a waitress.
Q. How long have you been working there?
A. I have been there just two weeks.
[fol. 189] Q. What if anything happened to you on Monday, April 25, at approximately 2:30 o'clock in the afternoon?

A. As I was leaving work, it was between 2:30 and a quarter to three, my car was fetched to me by the doorman, and the girl that worked with me, we got in the car, and in the driveway we were blocked by a striker who had a picket on him, and he stayed there until he had a mouthful of saliva, and he expectorated right over the car and walked, and he called me a scab, and he said, "Don't worry. One of these nights you will get yours."

Mr. Davis: That is all.

Mr. Brown: Your Honor, can I move that the testimony be stricken, since the identification is simply a conclusion, and there is no identification of any defendant or person associated with the defendants or agents of them, and the testimony is completely irrelevant and unconnected with the issues.

Mr. Davis: My recollection of the testimony is that the witness stated that a person in the picket line——

Mr. Brown: A striker.

The Witness: I meant——

Mr. Gramling: No fair coaching the witness.
Judge Carroll: The motion is denied.

Cross examination.

By Mr. Brown:

Q. How long have you worked at the Casa Blanca?
[fol. 190] A. Two weeks.
Q. Do you have a police card?
A. Yes, I have.
Q. When did you get it?
A. I had it renewed just the day this incident happened. I had it renewed.
Q. Last Monday?
A. I had it renewed.
Q. Did you have one prior to last Monday?
A. Yes, I did.
Q. Where did you work prior to the Casa Blanca?
A. I did not work at the Beach. I got my card—I went for a police job. They were putting on women checkers at the Beach, and I took a Civil Service Test, and I did not get the job. There were too many girls for it.
Q. I asked you where did you work?
A. I worked at the International Airport.
Q. In what capacity?
A. Waitress.
Q. Then your next—when was that?
A. I was at the International Airport from 1948.
Q. You have not worked since?
A. I worked there at 1948, and it was at the International Airport.
[fol. 191] Q. Where have you worked immediately prior to the Casa Blanca, and when?
A. At the International Airport.
Q. In 1948?
A. I started at the International Airport in 1948, up until just recently when—until——
Q. Until when?
A. This is April. I stopped there last November, over the hoidays, (sic) and I took a rest. I was home. That was all. I was hired for the Casa Blanca before I ever heard of

the picket line or any strike at all. There was a girl being operated on, and I was hired. I was down at the El Morroco at the Keys for a vacation.

Q. Do you live in the Casa Blanca?

A. No; I do not.

Q. You come to work each day?

A. Yes; I do.

Q. Have you ever been struck or assaulted in any way on entering or leaving the Casa Blanca?

A. The only thing that happened——

Q. Answer the question. Have you ever been struck or assaulted or interfered with physically, in any way on entering or leaving the Casa Blanca?

A. I have been interfered with leaving on last Monday, when they stood in front of the car and stopped me from [fol. 192] going until he had time enough to expectorate on my car, and come around and call me a scab, and tell me, "You will get yours one of these days."

Q. You did leave?

A. Oh, certainly.

Q. Nobody stopped you from leaving, did they?

A. I did not leave at the minute when I wanted to leave. I had to wait, unless I wanted to run over him.

Q. Is that the only time that you had any disturbance?

A. The only time.

Q. Since you have been coming and going?

A. That is right.

Q. You did not need a bodyguard like the previous witness, did you?

A. Well, I had the girl from work with me. I do not feel like I need a bodyguard.

Q. You are able to take care of yourself?

A. I hope to. There are times, though, I mean——

Q. You are not——

Mr. Sibley: Wait a minute. Let her answer the question.

Mr. Davis: Be courteous enough to let her answer.

Mr. Brown: You be courteous not to interrupt me, address your remarks to the Court, please.

[fol. 193] Judge Crawford: The witness was answering the question.

The Witness: I forgot what——

Mr. Brown: Did you finish your answer?
The Witness: What was your question?

(The last portion of testimony was thereupon read by the reporter as above recorded.)

The Witness: (Continued) There are times, though, I mean, well, I hope to be able to take care of myself, but there are times when you get frightened of things when they come up and threaten you, and you call it heresay, (sic) and the conversation that comes to you in a hotel. Nothing happened to me except that one incident, and I did not particularly like it.

Oh, yes, there has been a time. My picture was taken. I am sure they did not want my picture for any reason. I do not know if there was film in the camera, but they took the picture.

By Mr. Brown:

Q. Did that frighten you?
A. No, it did not frighten me, but it had me wondering why should they want my picture. I am no celebrity. I am just a waitress.
Q. You intend to go to work tomorrow, don't you?
A. I hope to.
Q. And you are not afraid of going to work tomorrow, [fol. 194] are you?
A. I have no reason to be.

Mr. Brown: That is all.
Mr. Davis: Come down. That is all.

(Witness excused.)

Thereupon—Ernest Davis was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Ernest Davis.

Q. Where do you work and what do you do?
A. I was working at the Casa Blanca Hotel.
Q. Beg pardon?
A. I was working at the Casa Blanca Hotel.
Q. You are not working there now?
A. No.
Q. What happened?
Q. Well, I had an incident—a fight with a guy, and he threatened me on account of my family, and my wife, and advised me that I had to leave.
Q. Why did you have to leave?

Mr. Gramling: Your Honor, I move to strike that answer as being totally unresponsive to the question. He mut- [fol. 195] tered something about my wife and family or something, but did not answer the question why he is not working there.

Judge Carroll: Overruled.

The Witness: I had a fight with a guy——

Mr. Brown: Is there a question pending or hasn't this witness answered?

Judge Carroll: He answered. He asked him another question.

By Mr. Davis:

Q. Ernest, suppose you explain to the Court why you quit your job and when you did quit it?

A. I quit the job the day before yesterday, for the simple reason that I had a fight with a guy on Second Avenue, and this guy—he was—I saw him in the picket line after the fight, so we paid a $15 fine over it at Judge Thomas' Court, and after he came out, I was going into the hotel, and he said, "You got off light before," and another guy was behind him, and which was a white fellow, and there was only one colored fellow in the picket line, and that is the guy I had a fight with.

He said to me, well, he said the officers come, and I kept in the hotel, me and the two other guys together, and we got in—and I said, "Well, boys, you all can stay here and work, but I am—I have got to go." So I left. That is the reason I am not there anymore.

Q. Where is your family?

A. My family is in Palm Beach.

[fol. 196] Q. When did they go to Palm Beach?

A. Yesterday.

Q. Where did this fight take with the union man?

A. It taken place on Second Avenue and Tenth Street.

Q. What time; when was it?

A. It was a little after three in the morning.

Q. What date?

A. On Saturday morning—well, it was Friday night—Saturday morning.

Q. Last Saturday morning?

A. Yes.

Q. What happened; how did it start?

A. There were three of us working in the kitchen and we were short of help so we three went to town.

Q. All three of you were working at the hotel?

A. All three of us were working at the Casa Blanca, and he wanted another man, and I walked into the Reno Bar—a friend of mine I saw in there, a boy called Willie, and I asked him did he want a job, and he said, yes, he needed a job; he was not working, so Willie and I were talking about the job, and in walks a friend of his, so this guy says, "Where are you working?" He said, "Casa Blanca," and he said, "No friend of mine is going to work there."

He said, "I am a union man," and the kid said, "So what?" He said, "I want a job."

[fol. 197] So me and the kid walks out of the place and walks down the street, and he followed us to Tenth Street and Second Avenue.

I stopped and asked him—I said, "Where are you going," and so he said, "I am going with the boy." So I said, "I am going to find out where the boy lives so I can pick him up in the morning."

So when I started to turn to walk off, he swung at me, and that is when he and I had it, down on the ground, and when the cops came there, he and I were down on the ground fighting.

Mr. Warren: Your Honor, we respectfully move to strike this witness' testimony, on the ground that it does not prove any of the allegations of the complaint.

It is irrelevant and immaterial—and if the Court will permit me, I would like to make a comment. It shows it happened on Second Avenue and Tenth Street, in another city from the alleged scene of this picketing. It has no connection between the picketing, and not connected with it, the picketing, and apparently an injunction would not reach a street fight over in Miami here; and if every little barroom brawl, your Honor, that grows out of union men objecting to these persons working there, is to be evidence in favor of enjoining picketing, it is possible, by some form of twisted reasoning, to tie nearly every—most any fight in connec- [fol. 198] tion with it, if a reference is made to it.

I earnestly insist that this is so remote, that it does not prove anything.

Mr. Davis: Governor, I respectfully suggest that you were not listening when the witness testified that the same man that said that, that he saw him in the picket line over at the hotel.

Mr. Warren: I did not hear that. In spite of that I withdraw the objection.

Judge Floyd: He said he saw him after the fight took place.

Mr. Gramling: After a fight up here in colored town, and he later finds, by some circumstances, apparently in a barroom brawl at 3:00 a. m. in the morning, there happened to be a personality seen over at the picket line at the Casa Blanca, miles away, in a different municipality.

We may again renew Governor Warren's objection to this type of testimony that has been induced, and you folks, so far, have reserved ruling on this ground, that it is subsequent to the filing of any pleadings or objection by the plaintiffs, and would tend to show at the time the plaintiffs swore that; when they took their oaths, that there were acts of violence, they are now relying upon this kind of stuff. [fol. 199] This occurred subsequently, even though it was in a different city.

Mr. Warren: Your Honor, then I did not hear clearly. I did not get that. But I renew and reaffirm the motion to strike it, and I would like to add this comment, in light of what Mr. Gramling brought out.

If every person participating in this picket line is to be held responsible for any acts that he commits far distant

from the picket line, in another city—if that is going to be visited back upon the picket line there, it seems to me that a person picketing there is branded and bracketed as a picketer, regardless of where he goes, or whatever he does.

I do not want to be far fetched in this thing, because it is a matter of grave concern; but if a picketer got into an argument out, we will say in Allapattah or Opa Locka with his wife in a domestic dispute, and if some reference was made to the Casa Blanca—if this is real, you could tie that in with it.

That seems to me—I do not know hardly how to express it, because in 25 years before the bar, I do not believe I have ever heard before, an effort made to present testimony [fol. 200] that is so remote and so unconnected and so—you might say—just—I do not know another word for it.

Judge Carroll: The motion will be denied. As I recall, the testimony, there was evidence from this witness that the man with whom he had the altercation himself later connected it up with this transaction in some future conversation or some further conversation with him about it at the location.

By Mr. Davis:

Q. By the way, Ernest, did you find out the name of this man?

A. Frasure or Frazure—that is the name that he gave.

Q. Was there any other occasion that you had any hindrance by any man in the picket line?

A. That was when I came back when I—Frazure was in the picket line, and the other white guy behind him—that is when he spoke and said, "The dog came back to lick the bone," so I go—to see about those in the hotel, and later on in the day—you see, I work from 4:00 in the afternoon to 12:00 at night, and I could not leave there at 12:00 at night by myself, not after what the guy spoke to me, as he did, and I stayed there all night, and waited to the next afternoon, and I left, and I called the man and told him I was not going to work. He said, "Why," he asked me why, and I told him why. I have not been back to work.

[fol. 201] Q. I will ask you, Ernest, whether or not you

ever were hindered by any man in the picket line, on any other occasion?

A. Well, no, sir, because when I went there, I went in the afternoon, and I stayed at night, and I would continue to stay, and my wife called me and said——

Q. Do not testify as to what your wife said.

A. What I mean is, that is the reason—one of the reasons why I had to—why I could not leave there at 12:00 o'clock at night and come home.

Mr. Davis: That is all.

Cross examination.

By Mr. Brown:

Q. Mr. Davis, you say that you got into a fight on 2nd Avenue and 10th Street, was it?

A. That is right.

Q. In Miami?

A. Miami.

Q. And this conversation that led to the fight started in the Reno Bar?

A. It started in the bar; that is right.

Q. Had you had a few drinks?

A. I had a few drinks; no, I did not.

Q. Did you drink at all?

A. I did not go in for a drink. I went to get a friend out.

[fol. 202] Q. How long about were you in there?

A. Four minutes.

Q. Four minutes?

A. That is right; as long as to ask him.

Q. This fellow walked up, was he a stranger?

A. Who was a stranger?

Q. Frasure.

A. Yes; he was a stranger to me.

Q. You never saw him before in your life?

A. Sure, I have seen him several times.

Q. Before then?

A. Sure.

Q. You did not know his name?

A. I just now repeating it to you.

Q. Well, you said you learned his name later.
A. I said the man named was Frasure.
Q. When did you first find out his name was Frasure?
A. In Court.
Q. In Court?
A. Yes.
Q. Now, what Court was that?
A. That was in colored precinct, down on 11th Street and 5th Avenue—Judge Connor's Court.
Q. Did you take the first swing, Davis?
A. I did not. I said the man swung at me.
[fol. 203] Q. He swung at you?
A. That is right.
Q. How much were you fined?
A. $15.00.
Q. For what?
A. For fighting.

Mr. Brown: That is all.

Redirect examination.

By Mr. Davis:

Q. Ernest, how much was Frasure fined?
A. $15.00.
Q. For what?
A. Fighting.

Mr. Davis: That is all. Come down.

(Witness excused.)

Thereupon—JANE PEREZ was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Jane Perez.
Q. Where do you work?

A. Casa Blanca Hotel as a waitress, in the coffee lounge.
[fol. 204] Q. How long have you worked there?
A. About a year and a half.
Q. On last Monday, April 25th, what if anything happened to you?
A. Yes. We started out of the driveway, and the car was in front of us—the people—the boy—blond headed fellow wearing this sign.
Q. Picket sign.
A. That is right. And he tried to stop the car—tried to hinder it from going out, so when they finally—let us go by, we started by, so he came up to the side and he yelled into the car to the other girl and I, and he said, "You just wait." He said, "I will get you." He said, "I will turn this car upside down and wreck it for you."
Q. Did anything else happen to you, other than that incident?
A. Yes. On Saturday afternoon, there were three of us girls driving up Collins, and we were being followed by a party in a green Buick. He tried to force us off the road.
Q. Let me interrupt you right there. Have you before or after this incident seen this same Buick car?
A. Yes; I have.
Q. Where?
A. Over across the street in front of the Hotel.
[fol. 205] Q. It is parked there every day?
A. Well, I do not know every day or not, but occasionally; yes.
Q. Do you know to whom it belongs?
A. Well, I know who drives it quite often.
Q. Who is that?
A. A waiter that used to be—named Pinky.
Q. Is that the Pinky that used to work in the hotel?
A. That is right.
Q. Did you see him drive that car?
A. Yes.
Q. On more than one occasion?
A. Yes.
Q. When was it that the car followed you?
A. That was Saturday.
Q. Will you tell the Court just what happened?
A. Well, he followed us all the way up to 100—I mean

through 73rd Street and Collins Avenue, and when he could not force us off the road, we finally got in a center lane of traffic, so he got a little bit disgusted because he got a stop light, and we went ahead of him, and we made the light, and he got a stop light, and he turned and went back.

Q. How many people were in the car?

A. Three girls.

Q. How many were in the other car?

A. Only one. That is all I saw.

[fol. 206] Q. Only Pinky?

A. Yes.

Q. Is there any other occasion that you were followed?

A. Yes. Monday afternoon, there were three fellows in a blue Bel-Aire that followed us from the hotel, all the way down Lincoln Road, two blocks——

Q. Did you recognize any of those?

A. Well, I am not positive, but I think I would.

Q. Who do you think it is?

Mr. Brown: I object.

Mr. Davis: Question withdrawn.

By Mr. Davis:

Q. Was there any occasion that you observed anyone taking the license number of your car?

A. Yes.

Mr. Brown: Your Honor, I move to strike that. That is, strike her testimony with regard to the blue Bel-Aire—the ownership of which is unknown. She thinks she might know something about it; she is not sure.

I move that the entire testimony be stricken and as identified with nothing.

Judge Carroll: Granted.

By Mr. Davis:

Q. Where did this automobile start following you?

A. From the hotel. It pulled out across—when we pulled out the north center lane of traffic, and went up about three [fol. 207] or four blocks, up Collins there.

Q. Where was the car parked when it started to follow you?

A. When we pulled out of traffic up into traffic there, we happened to notice the car being in back of us, and when we turned, they turned, and they pulled right up, and they would stay about a third to half a block in back of us, and all the way down Collins to Lincoln Road, and we turned right on Lincoln Road, and we lost them at two blocks down Lincoln.

Q. Is there any other——

Mr. Brown: Just a moment. I make the same motion, that I do not think the Court is concerned with her traffic problems and——

Judge Carroll: Granted.

By Mr. Davis:

Q. Have you ever seen this car before or after?

A. Yes; I have seen it.

Q. Where?

A. One like it. I cannot positively say that it is the same car.

Mr. Davis: You may inquire.

Cross examination.

By Mr. Brown:

Q. You described the incident on April 25th where some pickets were standing in your way as you were leaving, or a picket was standing in your way. You were with Vera [fol. 208] Luck, were you not?

A. No, sir; I was not.

Q. You were not?

A. No; it is the wrong girl.

Q. Who was with you?

A. It was Jessie Austin was with me, and Kay Enders was with me.

Q. Are you living in the hotel?

A. No, sir.

Q. You come and go each day?

A. Yes, I do. My husband takes me to work in the morning.

Q. Have you missed any days since the picketing started?

A. Yes. I have been out. In fact, I was off—I would leave the hotel 45 minutes before the walk-out in the afternoon, and I was off Saturday and Sunday, and I was off last Tuesday.

Q. You are now working back there?

A. I certainly am.

Mr. Brown: That is all.

Mr. Davis: Come down.

(Witness excused.)

[fol. 209] Thereupon—RUTH KNELL was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Would you please state your name?

A. Mrs. Ruth Knell.

Q. Do you work anywhere?

A. I am a housewife.

Q. Who is your husband.

A. Mr. Hans Knell.

Q. Where does he work?

A. Casa Blanca Hotel.

Q. What does he do?

A. He is a chef.

Q. What, if anything, happened to you on Saturday evening, April 23rd?

A. Well, my husband and I took a walk, and he told me he would like to go somewhere for a few minutes, and I told him I would meet him at a bar and grill, so I went down there and I sat down and I ordered a drink, and by the time I got a drink, I lit a cigarette, and I was looking for the bartender to hand me a match, and as I looked up, a man across the bar said, "Where is that scab husband of yours, and where is that guy that crosses the picket line?" [fol. 210] I said, "I beg your pardon. I do not even know

you." And he said, "You know me all right. If you do not, you sure will."

And I said, "Look, sir, if you want to talk to my husband, you speak to him; don't talk to me."

And just about then, Hans came around, and he started calling Hans very many obscene names, and including scab and strike breaker, and very many bad names, and I said, "I do not want to stay in here," to my husband, and he said, "Well, you are such and such, anyway," and he called me names, so my husband said, "Let's go, Ruth," and I started to go, and the guy grabbed me by the sleeve, and I said, "Let go before we get in trouble," and we started up towards Washington Avenue, and right behind us, very close, was five people—and five men, I should say, and there they were all talking about strike breaking, and scabs, and union breakers and, I mean, which I do not understand myself, because I do not work, and saying that Hans would never work again, and so they are so close, and I got panicky, and when we got to the corner—from the corner of Washington and Collins, a little—not quite so well lighted, so I said to Hans, I said, "Let's go to a friend of ours, at George's Bar," and we do frequent the place, but they are more or less friends of ours.

Q. Tell us what happened?

A. And they came right behind us, so we go in this little bar, to avoid getting in a fight, and just as we started to go [fol. 211] in the door, two of the men, of the five—two give us a shove, and we really bounce out, and they grab my husband, Hans, and push him to the next doorway, which is a beauty parlor, and they have—like in a doorway, they are pounding him and kicking him, and one of the men hit me in the shoulder, and I dropped my pocket book and as he went to pick it up, I took my shoe off, which was a pump slipper, and hit him over the head with the heel real hard like, and one of the men—somebody came in and drew me back in George's Bar, and by that time there was a couple of squad cars, and everybody disappeared.

Q. Did you recognize any of these men that followed you and beat up your husband?

A. I knew one of them from being around there. They call him Raven. He was an Indian, and I could describe

him very well. I knew exactly where he lived, and he had frequented those——

Q. Did you notify the policy of his identity?

A. I did, sir.

Mr. Davis: That is all.

Cross examination.

By Mr. Brown:

Q. You say you only knew one of these men?

A. I knew many of them, but I do not frequent these little outside bars.

[fol. 212] Q. You would not know whether any of them were union members or not?

A. I certainly would not, sir.

Q. You would not know where they worked, would you?

A. No, I would not.

Mr. Brown: On the basis of her answer, I move to strike all of her testimony of this incident with some bar room brawl after she had a drink and a fight with some unknown persons. She says she does not know if they are members of the union, or work in any hotel.

Judge Carroll: Do you propose to connect this up?

Mr. Davis: Yes; by the next witness.

Judge Floyd: The husband?

Judge Carroll: We will reserve ruling until after that. Unless it is connected up, we will strike it.

Cross examination.

By Mr. Brown·

Q. Were warrants sworn out after this incident?

A. Yes.

Q. And was a warrant sworn out against you?

A. No.

Q. Against your husband?

[fol. 213] A. No. The warrant was sworn out—I do not know how you do it anyway. They arrested this man called Raven Stiling, I believe it is.

Q. Raven is the only person that was arrested as a result of this incident?

A. That is the only one, sir.

Mr. Brown: That is all.

(Witness excused.)

Thereupon—HANS KNELL was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Davis:

Q. Please state your name.
A. Hans Knell.
Q. Where do you work?
A. Casa Blanca Hotel.
Q. What do you do?
A. Chef in the coffee shop.
Q. How long have you worked there?
A. Since the 5th of January.
Q. Is that 1955?
A. Yes.
Q. On the evening of April 23rd, what occurred to you? [fol. 214] Will you tell me what happened after you left the bar?
A. I am supposed to pick my missus up in a certain place, and when I got there, I found out she had an argument with one of the guys, and I recognized——
Q. Tell us what happened that you saw, yourself; what did you observe; what happened to you?
A. They called me all names—scab, and strike breaker and everything else, and finally I said—I heard one more insulting remark, and I throwed an ash tray at him, and I said to my missus, "Let's go. It's not the place for us," and we walked away for about a block and a half, and to go to a friend of mine business, and just the moment we wanted to enter, five guys came from behind and knocked

me down, and they punched me here, and they punched her.

Q. Did you recognize any of these men?

A. One I had arrested, and I sworn four more warrants out, but I did not know the name of the guys, but one of the guys—the insulting guy, I think is the same guy he had picture taken when the strike broke out. He made front page news.

Mr. Brown: I object to that.

The Witness: He was a waiter in the Saxony Hotel.

[fol. 215] Mr. Brown: I object, Your Honor, on the ground that he thinks that it might be——

The Witness: No. A couple of weeks previous he was sitting next to me.

Mr. Brown: I object to the testimony on the ground that the witness thinks it might be.

Judge Carroll: Motion denied at this time. You have not tendered the witness.

Mr. Davis: No, sir.

By Mr. Davis:

Q. Hans, I want you to state whether or not you, in fact, recognized one of the men as the man whose picture appeared in the paper as one of the pickets?

A. Yes. I was looking for him ever since. I have a warrant out, but I do not know his name, and every day when I get through working, I am scouting around the neighborhood looking for him—even if I have a broken rib and a bum knee, and on account of that fight.

Mr. Davis: You may inquire.

Mr. Brown: I renew my motion. It has not been connected up in any way, nor has any person been identified as a member of the union or a picket, or in any way associated with the parties here.

Judge Carroll: Denied.

[fol. 216] Mr. Brown: May I be heard on that point?

Judge Carroll: Proceed. You may cross examine.

Cross examination.

By Mr. Brown:

Q. Who is Mr. Raven?
A. Who?
Q. Who is Mr. Raven?
A. That is the guy that I arrested.
Q. Where does he work?
A. Where does he work? I do not know, but I know where he lives.
Q. You do not know where he works.
A. No, I do not even know that he lived—I had to find out the next day.
Q. Do you know whether or not he is a member of the union?
A. I could not tell you.
Q. Did he ever work in the Casa Blanca?
A. I would not know that.
Q. Did you know any of the other men that assaulted you
A. By sight, yes, very well. I will never forget their faces, either.

Judge Carroll: He means, did you know them before that.
[fol. 217] The Witness: Oh, yes; especially that one guy like I said before, he was sitting next to me about two weeks ago when his picture was taken, and it made front page news in the Miami Herald. He was the first guy that started picketing.

By Mr. Brown:

Q. He works at the Casa Blanca?
A. No; Saxony, I said before.
Q. You said he worked at the Saxony?
A. Yes; as a waiter.
Q. You do not know who he is?
A. No; but I know his face very well. I do not know his name.
Q. How do you know he works at the Saxony?
A. He, himself, told me two weeks previous, when the strike broke out.

Q. Was he working at the Saxony at the time the Saxony went out?

A. In fact, we even——

Q. Just a moment, please. Was he working at the Saxony on the day the Saxony employees began the picketing?

A. He was one of the first ones outside with a sign around him.

Q. How do you know?

A. That is why he made front page news.

Q. How do you know that?

[fol. 218] A. His picture was in the paper, and he told it to me, himself, the same day. He was sitting next to me, and he had a glass of beer with me, sir.

Q. Are you still working at the Casa Blanca?

A. Yes.

Q. You go there every day?

A. Yes, I do not do any heavy work due to my broken rib and my knee.

Q. Do you know the people outside that are picketing?

A. I do not look at them.

Q. Do you know them?

A. I just mind my own business. I go to work and I get out again.

Mr. Brown: That is all.

Mr. Davis: That is all. Come down.

(Witness excused.)

Judge Carroll: How many more witnesses do you have at this time?

Mr. Sibley: I have about eight, Your Honor.

Judge Carroll: More?

Mr. Sibley: Yes. We will touch on a few hotels. I will run through them rapidly, and follow it up with the other hotels.

[fol. 219] Judge Carroll: Court will be in recess for ten minutes.

(Thereupon a short recess was taken, after which the following proceedings were had.)

Judge Carroll: You may proceed.

Thereupon—PRESTON A. THALL was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name, sir.
A. Preston A. Thall.
Q. Are you a resident of Dade County, Florida?
A. Yes, I am.
Q. How long have you been a resident of Dade County, Florida?
A. About a year and a half.
Q. What is your occupation or profession?
A. I am the laundry consultant for the Schine hotels.
Q. You are laundry consultant for the Schine hotels?
A. Yes.
Q. Is that including the Roney Plaza?
A. Yes.
[fol. 220] Q. What is your job or your duty in connection with the Roney Plaza Hotel; what do you do?
A. I handle the laundry department and see that the work is properly done.
Q. Where is the laundry department located?
A. Immediately across Collins Avenue from the Roney Plaza, west.
Q. In what building?
A. A building known as Gaston Lodge.
Q. What?
A. In a building known as Gaston Lodge.
Q. Gaston Lodge?
A. Yes.
Q. It is across the street from the Roney Plaza Hotel; is that correct?
A. That is correct.
Q. And in that building, as I understand your testimony, you have a laundry that you supervise and operate?
A. That is correct.
Q. How many employees do you employ and work at that laundry?

A. There are 25.

Q. Were you present on the day that the strike was called--so-called strike was called, and the picket line was thrown up at the Roney Plaza Hotel?

A. I was.

[fol. 221] Q. Did you receive a visitation from a large group of men, one of whom was a defendant Smith——

Mr. Brown: I object——

Q. —on that day.

A. I did.

Mr. Gramling: Objection; leading question. You know that—that Mr. Sibley is testifying——

Mr. Sibley: I will get along, and we will get along a lot faster——

Judge Carroll: Overruled.

By Mr. Sibley:

Q. What transpired? First, how many men came to the laundry with Mr. Smith?

A. Originally, about ten men came in to the laundry.

Q. Now, were you working full blast at the laundry at that time?

A. I was.

Q. How many employees were you working at that time?

A. About 25.

Q. Now, when these ten men and Mr. Smith, the defendant, came there, what happened?

A. Well, they shouted there was a strike; people should stop working.

Q. Did they come into the building?

[fol. 222] A. They did, sir.

Q. How far into your laundry did they come?

A. Just about as far back as you could, into the building.

Q. All ten of these men?

A. That is right.

Q. And what did they shout?

A. "There is a strike; stop working."

Q. Then what happened?

A. The employees started to walk away from their machine and gathered in groups.

Q. What did you do?

A. I shouted, "Go back to work," and told these men they were trespassing; to get out.

Q. Then what happened.

A. Then they came back with Mr. Smith, and I invited Mr. Smith to come into my office, and if he wanted to talk about something, but I told the rest of the people to get out, and instructed the help to continue work, which they did.

Q. What happened when Mr. Smith came into your office?

A. He came in and I explained to Mr. Smith that we were doing work for the Gulfstream Hotel and the McAllister Hotel and the Lodge, and we suffered considerable [fol. 223] damage; the equipment was hot and operating and had to continue, and I wanted to continue the process—the work for the various hotels that were handled there.

Q. What did Mr. Smith do?

A. He said he would have to call Mr. Herman.

Q. Did he call Mr. Herman?

A. He did.

Q. Then after he talked to Mr. Herman, what did he do?

A. He walked out and he said, "That is all," and I shouted back, and I said, "Mr. Herman said I could continue to work today."

Q. You hollered that back to them, to Mr. Smith?

A. Yes.

Q. Did you then talk to Mr. Herman?

A. Yes, I did.

Q. What did you say to Mr. Herman?

A. I explained to Mr. Herman that we were doing work for the other hotels—not the Roney Plaza at the time—and that I wished to continue to operate.

Q. What did Mr. Herman say?

A. He said he thought that would be all right, or something to that effect.

Q. Now, have you continued to work since that time?

A. No, sir.

[fol. 224] Q. What happened after that?

A. Well, immediately after Mr. Smith left, and the crowd of men—especially the women were frightened and several of them were crying and excited, and so on, and I told them

to finish up what we could and not report tomorrow and I would call them when everything quieted down.

Q. What did you observe that caused these women to be crying and excited?

A. The shouting and these people coming into the plant and raising a disturbance.

Q. Since that time, then, you have not been able to operate your laundry?

A. Not to capacity.

Q. How long after was that before you could induce your help to come back there?

A. Well, after one day off, I contacted several at a time, and I was able to induce a few each day to come back.

Mr. Sibley: That is all.

Mr. Warren: Your Honor, we move to strike all of this testimony, on the ground it does not prove any allegations in the complaint.

I would just like, if I may, to make an observation, that was a little disturbance there that is cured—that is out of [fol. 225] the way. There is nothing to enjoin—no basis for an injunction. It is an attempt to enjoin something that ceased to be, you might say, current.

That would be equivalent to enjoining a condition that existed one time and it passed out of existence.

Judge Carroll: In what manner or in what cases do you consider this material, Mr. Sibley?

Mr. Sibley: Your Honor, I think that this is most material.

This is the commencement of the strike or the so-called picketing and walk-out, in which we have a man who has the courage to come here and tell your Honors how the leaders of the strike intimidated the workers, in order to run them off the job.

Fortunately, we had a man here, at the time, who had a reason why this mass approach—this attack—the screaming and yelling of these men to run these workers off the job. Fortunately, we had a man that has the courage to come in and tell you about it.

A lot of them do not have the courage to come here, so they are not working today and they are not at the Roney Plaza Hotel.

This is typical of the manner and means used by these [fol. 226] men, in order to drive away the workers on that day, and we say tresspassing (sic) and intimidation, and is a perfect example of force and intimidation and coercion used.

Judge Carroll: The motion to strike is granted.

Mr. Sibley: Come down.

Did your Honors strike all of his testimony?

Judge Carroll: That is right.

Mr. Sibley: All right.

(Witness excused.)

Thereupon—JERRY KEDRIERSKI was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name, sir?

A. Jerry Kedrierski.

Q. What is your occupation or employment?

A. Sergeant of Police, Miami Beach Police Department.

Q. How long have you been a member of the Miami Beach Police Department?

A. Seven and one-half years.

Q. Are you here under a subpoena tonight?

[fol. 227] A. Yes.

Q. Sergeant, did you observe any misconduct or altercation on or about April 19th, about 11 o'clock in the morning, at the Sans Souci Hotel?

A. May I refer to my records?

Judge Carroll: Yes.

By Mr. Sibley:

Q. You may refer to any data that you have to refresh your recollection.

A. Tell me which case——

Q. I am talking about the Arthur Hunt case.

Judge Floyd: When are these cases scheduled for trial at the Beach Court? Are any of them scheduled for trial?

Mr. Sibley: I think they are all going to be tried, possibly on Monday.

Judge Floyd: This coming Monday?

Mr. Sibley: As I understand it, there have been a number of warrants taken out and cross-warrants taken out, and counsel on both sides have stipulated, thus far, for a continuance of the cases—those representing the pickets and those representing the employees, and every time they have a scuffle over there, everybody runs for a warrant, on both sides, and I think they are set for Monday before the City Judge.

Judge Floyd: All right, sir.

By Mr Sibley:

Q. Do you have it, Sergeant?

[fol. 228] A. Yes.

Q. What did you observe on that day, Sergeant?

A. On that day, my partner and I——

Q. Who was your partner?

A. Detective Schemp. We were assigned to patrol the section around the Sans Souci and Saxony Hotel, on that day, to maintain law and order, and to make an arrest in case of any violations, to make an arrest.

On that day, I and my partner, at 4:30 p.m., we saw such a violation, and a picket named Augustine Arci, walking north on Collins Avenue, and we had, up to that moment, under observation a blue Oldsmobile convertible, in which two men were acting, in my estimation, suspicious, and one of these men kept referring to his watch, and this man turned out to be a Mr. Hunt who had a 4:30 appointment at the Sans Souci for a job.

They —we did not know this at the time, and he attempted to enter the Sans Souci, and at this time the picket, which we later identified Augustine Arci, kicked him in the shins, and the man almost fell to his face, and some words passed, and to prevent any further outbreak or altercation, we took Arci into custody.

We arrested him on disorderly conduct by assaulting another, to wit, Mr. Hunt.

Q. Who signed the complaint against the picket?

[fol. 229] A. I did. It was a misdemeanor committed in my presence.

Q. Now, after these picket lines were thrown up, were there policemen assigned to each of the picket lines, for the purpose of maintaining order?

A. To my knowledge, yes; and I would like to bring out one thing why I signed that affidavit. Mr. Hunt wanted to go to a doctor, and we let him go.

Q. Since this disturbance over there, and since these picket lines have been thrown up, have the hours of the members of the Miami Beach Police Department been changed any?

Mr. Gramling: We object to that as being totally irrelevant. Maybe their hours were changed and maybe—half of the United States went on daylight savings time, and as a matter of fact, it did.

Judge Carroll: Sustained.

By Mr. Sibley:

Q. Are you required to work a longer day now by reason of any rule or regulation of the Police Department because of this picketing?

A. On order of the——

Mr. Gramling: Again, we renew our objection. Whether they are working longer hours or shorter hours is a matter, I believe, of Chief Romeo Shepard's business, or the per-

[fol. 230] sonnel board of the City of Miami Beach.

Judge Carroll: Sustained.

By Mr. Sibley:

Q. Have you investigated any other incidents, Sergeant?

A. Yes, I have.

Q. Will you explain to the Court what incidents you investigated?

A. Primarily, we were assigned to make an investigation and a complaint of Mr. Robert Cannute, and this com-

plaint was felonious assault and battery, and breaking and entering, and vandalism, and robbery—all by the same complainant.

Q. Again, against whom was this complaint made?

A. At that time, the identity of the suspect was unknown.

Q. Is it known now?

A. Yes.

Q. Who was the suspect?

A. The suspect has been positively identified as William Dean Force.

Q. Have you discussed with any of the officials of the Union whether or not he is a member of the Union?

A. Yes, I have.

Q. With whom have you discussed the matter?

A. Well, I have talked to a Mr. Berlin over the phone, and I talked to Mr. Smith.

[fol. 231] Q. Have they identified him as a member of their Union?

A. They knew him, and they did not identify him as a member of the Union, but they knew him as a picket and a person which the Union, itself, loaned a sum of money.

Q. They knew him as a picket?

A. Yes.

Q. Where did this incident occur?

A. There were—there are four specific instances. Which one are you speaking of?

Q. I am speaking of the Cannutte.

A. That is right. It happened separately—not altogether. The assault and battery and robbery took place in one place, and the vandalism——

Q. Where was that?

A. The assault and battery and robbery took place in the men's bathroom at the El Morocco Hotel.

Q. Where is that, in connection with the Saxony Hotel?

A. It is across the street.

Mr. Brown: Your Honor, I move to strike this testimony of an assault and of a robbery of or at the El Morocco Hotel bathroom, as completely unrelated.

Judge Carroll: The motion to strike will be postponed [fol. 232] until after the witness' testimony is in.

By Mr. Sibley:

Q. Sergeant, where do the picket captains hand out and make their headquarters for the picket line, at the Saxony Hotel, have you observed?

A. In two instances, yes.

Q. Where?

A. Usually opposite—across the street—cater-corner from whichever hotel is being picketed.

Q. Well, for the Saxony Hotel, that was at the entrance to the El Morocco Hotel?

A. It is close by; yes.

Q. This complainant—where was he employed?

A. At the Saxony.

Q. He was an employee of the Saxony?

A. Yes, sir.

Q. What have you ascertained from your investigation, Sergeant?

A. Our investigation—reading from this man's complaint, and from the testimony that we took from him, and in front of the County Solicitor—the Assistant County Solicitor, Mr. Henderson, in which he stated that Robert Dean Force, formerly a member of the Saxony Hotel, followed him—

Mr. Warren: I object to this, on the ground it is not the best evidence; that the man's own testimony would be the [fol. 233] best evidence.

Judge Carroll: Who is he testifying about? He said this to him, now?

Mr. Sibley: He said, this is an investigation he made and ascertained from testimony taken from the County Solicitor. I do not think it is admissible.

Judge Floyd: We agree, that it is not admissible.

By Mr. Sibley:

Q. Have you been able to locate this man, Mr. Force?

A. At present, he is a fugitive.

Mr. Sibley: You may inquire.

Mr. Brown: I renew my motion, your Honor. May I be heard for just a moment on this point?

(Informal discussion off the record.)

Judge Carroll: The evidence does not appear to be material. Would you like to be heard on it, Mr. Sibley?

Mr. Sibley: You mean, the evidence of picketing, and the man going into the Sans Souci, or the evidence of the investigation that the Sergeant made?

Judge Carroll: Yes.

Mr. Sibley: I think it is cumulative. It is a strained and [fol. 234] dangerous situation, occasioned by misconduct of this Union; that it gives you the background referred to by the Supreme Court of Florida.

(Thereupon Mr. Sibley argued to the Court at this point.)

Mr. Sibley: So it is, all we have to do—and my friends have denied it here, and have been making, I thought, silly objections in connection with it—is to show a background of this Union aimed at an industry in which they fight in colored town, and they bash in heads on 10th Street, and they rob them and they beat them at the El Morocco Hotel, and we cannot show that it is one of their representatives, or my good friend over here who comes from New York ordered it to be done——

Mr. Brown: I rise to an objection.

Mr. Sibley: Let me finish.

Mr. Brown: To the home of Mr. Herman, as being New York.

Judge Carroll: Mr. Sibley will have to be the judge of his own argument.

Mr. Sibley: I apologize if my friend is not from New York. Then he is from the North.

[fol. 235] Now, if your Honors please, we started, and in my first argument to your Honors was to alert this Honorable Court to the fact that we had a Union that was striking against an industry, and that the background of that was force, violence, intimidation and threats and fear, and they scare them at the Casa Blanca, and they scare them somewheres else, and they get it in the newspapers, and they disclaim any knowledge of it because the basis of their movement is fear, and we intend to show, and we think we are showing it.

So, if your Honors, please, when we show by this witness that there was an occurrence between a man named

Mr. Force, who members of the Union identified as a picket, and identified as somebody they loaned some money to, and that that incident involved robbery and threats and a beating—we do not have to go any further than that. We are merely showing a backdrop or a background in which they have sent their picket lines and this strike, as they call it, so we insist, your Honor, that the evidence is admissible under the rules of the Supreme Court of Florida.

Mr. Warren: Does your Honor care to hear us or care to rule?

Judge Carroll: I think both sides have explained their [fol. 236] position on it.

The motion to strike will be denied. The evidence will be given its proper value.

The ruling does not indicate any peculiar feeling of materiality or immateriality.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Officer, referring to your arrest of Mr. Augustine Arci, how old is Mr. Arci?

A. I imagine he is about 45 years old.

Q. How old?

Judge Floyd: He said, 45.

By Mr. Brown:

Q. Does it show on your records there?

A. Born December 7, 1905.

Q. And how old is Mr. Hunt?

A. We do not know.

Q. As best you could judge?

A. I'd say Mr. Hunt was about 30.

Q. Did Mr. Hunt register a complaint with the police and ask for the arrest of Mr. Arci?

A. He did not have to. He wanted to go to a doctor.

Q. I asked you if he did?

A. No; he did not.

[fol. 237] Q. Did Mr. Hunt at any time express an indication that he wanted to prosecute Mr. Arci?

A. Yes, he did. I questioned Mr. Hunt before he left the scene.

Q. Now, you say you are assigned to observe picket lines in what area, sir?

A. My partner and myself drove—we cover all the hotels, and anybody that is sick or off duty, we cover for them.

Q. And you have been doing that since the picketing started?

A. Yes, sir.

Q. And in your opinion, officer, has the picketing been peaceful?

A. Fairly so; yes.

Mr. Brown: That is all.

Mr. Sibley: Come down.

(Witness excused.)

Thereupon—ROGER WOLTERS was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.

[fol. 238] A. Roger Wolters.

Q. Where are you employed?

A. Saxony Hotel.

Q. What are your duties?

A. I am Superintendent of Service.

Q. How long have you been employed?

A. About two months.

Q. Are you a member of any union?

A. No, sir.

Q. Since the picket lines were thrown up, have any incidents occurred, which you received any threats?

A. Yes; the first morning.

Q. Beg pardon?

A. The morning of the strike.

Q. What happened?

A. I left the hotel to meet my mother, who was across the street, and two gentlemen which I cannot identify, stopped me in front of the El Morocco and said that my life, my home and my parents and my car were not safe if I went back to the hotel.

Q. They were located where, at the El Morocco?

A. In front of the El Morocco.

Q. Is that across the street from the Saxony?

A. Yes.

Q. Have you seen those men there since?

[fol. 239] A. I have not paid any attention to look. I have not been looking for them or anything.

Q. Has anything occurred since that time, Mr. Wolters?

A. Yes. Last Saturday night, there were windows of my automobile were shot with a air rifle, I believe.

Q. Where was your car parked?

A. On the Saxony parking lot.

Q. On the Saxony parking lot?

A. Yes.

Q. That was last Saturday?

A. Yes.

Q. What happened to your car?

A. They broke the front windshield, and windows on the right hand side of the car.

Q. Any other damage occurred to your car besides that?

A. No, sir.

Q. Did anything else happen to you besides that?

A. Sunday night I received a threatening phone call in the hotel.

Q. What happened?

A. They just said that—they asked for me and I became—I acted like I was somebody else, and they said I was a liar. I told them I was not in, and they said they [fol. 240] were going to smash my car to the ground tonight; they will take care of it right.

Q. Did they do any more harm to your car?

A. No, sir. I put it in storage.

Q. Is your car in storage now?

A. Yes.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Do you know any of the people that spoke to you?
A. No, sir.
Q. You do not know—you do not recognize them as members of the Union?
A. I do not know anyone that belongs to the Union.
Q. You are certain they are not employees of the Saxony?
A. I do not see them. I do not know everyone who works there.
Q. Do you know the person who called you at all?
A. No, sir. The fellow that talked to me on the street, at the El Morocco, was an ex-bellman there, and he must have pointed me out.

Mr. Brown: I move to strike the answer an unresponsive.
[fol. 241] Judge Carroll: Granted.

By Mr. Brown:

Q. Where do you live?
A. In Miami.
Q. Where?
A. Out by Hialeah.
Q. And you come to work every day?
A. No, sir. I am staying at the hotel.
Q. How long have you been staying at the hotel?
A. Since the day of the strike.
Q. How long have you worked at the Saxony?
A. Approximately two months.
Q. Approximately two months?
A. Yes.
Q. Where did you work prior to that?
A. I was a student.
Q. Where?
A. Lindsey Hopkins.

Mr. Brown: That is all.

Redirect examination.

By Mr. Sibley:

Q. You say you were living in the hotel since the strike?
A. Yes.
Q. You did not live there before the strike, did you?
A. No, sir.

[fol. 242] Mr. Sibley: Come down. That is all.

(Witness excused.)

Thereupon—TREVOR SCOTT was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name?
A. Trevor Scott.
Q. Where is your home?
A. Beg pardon?
Q. Where is your home?
A. In the United States or——
Q. Where are you from?
A. From Jamaica, West Indies.
Q. What are you doing here in the United States?
A. I am a student at the University of Miami.
Q. Now, are you doing any work at the hotel at the present time? Are you working at a hotel?
A. Yes; I am.
Q. What hotel?
A. Algiers.
Q. How long have you been working at the Algiers?
[fol. 243] A. Two Thursdays ago—I beg pardon.
Q. Two Thursdays ago?
A. Yes.
Q. Has anything happened to you since you have been working at the Algiers; have you had any difficulty?

A. Not inside the hotel, itself.

Q. I did not say inside; anywheres—inside or outside?

A. In respect to the strike?

Q. Yes.

A. In respect to the strike, on the morning of the 25th, I was standing at the bus stop, about a block or two away from the hotel.

Q. When you say the morning of the 25th, what time in the morning?

A. The 24th.

Q. What time in the morning?

A. At about one-thirty.

Q. At about one-thirty in the morning—that would be the morning of the 25th?

A. That would be the morning of the 24th.

Q. Go ahead.

A. That is right.

Q. What happened?

A. I was standing there under the light, waiting for the bus, and two men drove up in a car, and I did not know [fol. 244] that it was two men at first, naturally, and until after I got in, and they asked me if I wanted a lift, and I said, "Where are you going?" And they said, "Straight down."

I said, "Are you going near the Hotel South Seas," and they said, "Yes."

So I jumped in the back.

They went down the road, and about two or three blocks, and made a right turn, and this was on Collins Avenue, I think that is the name of the hotel there—they rode in front of the hotel—they rode—and they made a run of about two or three blocks down the road, and I said, "Hey, you are going the wrong way," and they said, "We know. We are union men." And I said, "Well, what does that have to do with me?"

He said, "Well, you have no business working there."

I said, "I do not know why," because I have to go to school at the University, and I have permission to work from the Immigration Authorities, and I do not see what this has to do with me.

So I tried to explain to him that where I come from, things like that are not done, and I did not understand

what the whole thing was about in any case.

Well, the general attitude, from the things that they said that I had no right to take somebody else's job, and [fol. 245] this, that and another, and I told them that I did not know.

And, well, I began to get a bit scared, because I did not know exactly what was happening. I mean, they turned off the wrong road, when they are saying they are going straight down, and I started looking around inside the car if there was any way to get out of it, and on the back of the car there was a yellow Studerbaker, (sic) as nearly as I can make it—I think it was a yellow car—approximately '47 or '48 model, and on the back—on the back window, when I was looking around, I saw a sticker with a mark, "Union," on the back.

Q. Now, what happened after that?

A. Well, sir, I went through about two or three green lights, and they headed toward the west shore—I think west—yes, sir.

Q. Towards the Bay?

A. Beg pardon?

Q. Towards the Bay?

A. Yes; towards the Bay, and I just waited. I was hoping for a red light, if there were some people, because I did not know what to do one way or another, and when they came to a red light and stopped eventually, and I jumped out of the car and I was in the back, and I jumped out quickly, and he yelled out—one of them yelled out that, "You are lucky." I also——

[fol. 246] Mr. Sibley: You may inquire.

The Witness: I also neglected to mention that I was asked if I was Spanish, and I said, "No"; that I was British, although I did have some Spanish blood in me.

The two gentlemen in the car, if I can call them that, also had had—they had Spanish accents—at least it sounded like Spanish to me.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. This was a sedan that you were riding in; it had four doors?

A. I told you that I jumped out the back. It should have four doors.

Q. It had four doors?

A. Yes.

Q. And you were sitting in the back seat, were you not?

A. Yes.

Q. Pardon me for repeating it, but I am trying to get it clear.

A. I did not hear that.

Q. I am trying to get it clear, I said.

A. O. K.

Q. Was there any—were either of the two men sitting [fol. 247] in the back with you?

A. No. They were both in front.

Q. Did either of the two men at any time say that you could not leave the car?

A. No; they did not say that I could not.

Q. Answer my question—yes or no.

Judge Carroll: He answered your question directly.

By Mr. Brown:

Q. I asked you the question directly—did either of the men say that you could not leave the car—tell me yes or no?

A. I did not ask them.

Q. Pardon me?

A. I did not ask them.

Q. I did not ask you whether you asked them.

A. Why should they tell me I can't leave the car if I did not ask them?

Q. When you started to leave the car, did they try to stop you in any way?

A. They did not have time—believe me.

Q. I did not ask you that.

A. I did not wait to find out. I do not know.

Mr. Brown: Would the Court ask the witness to respond?

Mr. Sibley: He said he did not know.

Judge Carroll: The witness should listen to the ques-
[fol. 248] tion and try to answer it directly.

The Witness: You want definitely, yes or no?

By Mr. Brown:

Q. Yes.

A. May I ask you something?

Q. Don't ask me any questions. If you do not know, say you do not know. If you do know, then answer, please, yes or no.

A. All right; I do not know.

Q. Did either of the men at any time make any move to harm you?

A. Not physically; no.

Q. Did they make any move to harm you mentally?

A. Well, the fact that they said they were going one way and went another the next way—that disturbed me. Would it not disturb you?

Q. Where were you going?

A. I was going to the South Seas Hotel.

Q. Where is that located?

A. That is approximately, I think, between ten and twenty blocks from the Hotel Algiers.

Q. On what street?

A. On the same street.

Q. Where were these two men going, do you know that?

A. At the time they picked me up?

[fol. 249] Q. Did they tell you where they were headed for?

A. If you remember my statement previously, I asked, "Where are you going," and they said, "Straight down," and I said, "Are you going as far as the South Seas Hotel," and they said, "Yes," and I jumped in.

And then they turned right a couple of blocks down, and I said, "Hey, you are going the wrong way," and they said, "Yes; we know. We know that. We are Union men."

Wouldn't you be disturbed if you were me?

Q. I did not ask you that. Now, did the men at any time threaten you?

A. I told you, no, physically.

Q. I asked you if they harmed you before and you said, no, physically?

A. Yes.

Q. Now, you say that they did not threaten you physically, either?

A. They—the only thing they said to me——

Q. Please answer my question yes or no.

A. Yes; they threatened me.

Q. What did they say?

A. They said, "You better not be back at work there tomorrow night."

Q. Did you go back there the next day?

A. Yes.

[fol. 250] Q. Did anybody bother you?

A. No.

Q. Has anybody bothered you at any time that you have gone to work? Does it take so long to think of an answer for that?

A. Sometimes, yes.

Q. Tell us the truth.

A. You mean, anybody from the Union?

Q. Yes.

A. Not that I know of; no.

Q. How long did you work there at the Algiers?

A. I began there two Thursdays ago.

Q. And how did you happen to go to the Algiers for work?

A. How did I happen to go there? I just walked in.

Q. How did you know there was a job available there?

A. I did not know there was a job available. As a matter of fact, I went in there to sell them something, and I ended up by getting a job. It was quite a joke.

Q. Do you have a police card?

A. What?

Q. Do you have a police card?

A. Yes, I do.

[fol. 251] Q. When did you procure it?

A. When did I get it?

Q. Yes.

A. Today.

Q. Who told you to get it?
A. Who told me to get it?
Q. Yes.
A. The police officer that came up there.

Mr. Brown: That is all.
Mr. Sibley: That is all. Come down, please.

(Witness excused.)

Thereupon—VAL TURNER was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Val Turner.
Q. What is your business?
A. Business—manager of the bar at the Saxony Hotel.
Q. How long have you held that job?
A. June will be four years at the Saxony Hotel.
Q. Are you a member of the Union?
[fol. 252] A. Local No. 133.
Q. Mr. Turner, since they threw a picket line up at the Saxony Hotel, have you had any difficulty there?
A. Well, they threw the picket on Wednesday, April 13, and the next night, on a Thursday, I go out to get my car with Miss Grubber, the night auditor, and I found my car—the tires—four tires slashed and the gasoline tank ripped out of my car.
Q. Where was your car parked?
A. On 34th Street, near the Robert Richter, between Collins Avenue and the Beach.
Q. Do you know who did it?
A. No.

Mr. Sibley: You may inquire——

By Mr. Sibley:

Q. What did it cost you to get if (sic) fixed?
A. Close to $200.

Mr. Sibley: That is all.
Mr. Brown: No cross examination.

(Witness excused.)

Mr. Brown: I move that his testimony be stricken. It seems to be a case of vandalism, completely unconnected. There are thousands of such cases all over the United [fol. 253] States every day, and I do not think the Union can be accused in each one of these.

Judge Carroll: Motion denied, on the basis stated, as to the last testimony.

Mr. Gramling: Sir, by the same token, would we be permitted to present to you, if properly certified, from the Police Department of Miami Beach, and of Miami, our neighboring municipalities, the number of vandalisms throughout the year in each of such municipality, particularly with reference to Miami Beach, which would emphasize and show you that that is going on all the time and everywhere, and to take one isolated vandalism——

Judge Carroll: We will rule on the matters when they come up in the testimony.

Thereupon—MARGUERITE GALE was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Marguerite Gale.
Q. Where are you employed?
A. Algiers Hotel.
[fol. 254] Q. How long have you been employed there?
A. Since 1953.

Q. In what capacity?

A. Linen room woman.

Q. You were employed there at the time the picket line was thrown up?

A. Yes.

Q. Since the picket line has been thrown up, have you had any difficulties or any disturbances or interruptions in your work?

A. Not in my work. I have had telephone calls.

Q. What kind of telephone calls do you get?

A. Well, on Monday night, they called and asked me if I had thought that I was going to join the Union yet, and if I had not, I better think deep.

Q. Was that the Monday before they put up the picket line?

A. That was Monday, the 18th, before the picket line.

Q. After the picket line was put up, did you get any more telephone calls?

A. No, sir.

Q. Now, do you recall just prior to the time the picket line was put up, that you were asked to sign a card to appoint a bargaining agent?

[fol. 255] A. Yes.

Mr. Gramling: I object to his leading the witness. If she cannot recall any more than that, there is no use of him prompting her.

Judge Carroll: Overruled.

By Mr. Sibley:

Q. Who approached you in reference to that?

Judge Carroll: I might say, counsel, that leading questions on prelimary (sic) matters to expedite this are not particularly objectionable. But if he gets into——

Mr. Gramling: I feel so strongly——

Judge Carroll: Make an objection if you feel you should make it.

By Mr. Sibley:

Q. Who approached you, Miss Gale?

A. One of the workers at the Algiers.

Q. Did he present the card for you to sign?
A. Yes.
Q. The first time he presented it, did you sign it?
A. No, sir.
Q. The second time it was presented, did you sign it?
A. Yes, sir.
Q. What was said at the time that it was presented the [fol. 256] second time?
A. They said that the Union would help us, and if I would sign it, I would help the cause.
Q. What did they say if you did not sign it?
A. Well, they did not say anything at that time if I did not sign it.
Q. I mean, the second time?
A. They just said that I should sign it to help the cause.
Q. What about the first time; what did they say?
A. They asked me to sign it.

Mr. Gramling: She already testified about both times, and I object to it. He is trying to suggest to her, and certainly this is leading. We are certainly beyond the preliminary stages.
Judge Carroll: Overruled.

By Mr. Sibley:

Q. Did you have a conversation with Harold Hammer?
A. Yes; we talked.
Q. Beg pardon?
A. Yes.
Q. What was his position at the Algiers before the strike?
A. Linen room man at night.
[fol. 257] Q. What did he say to you in reference to signing the card?
A. He said I should sign it, because it would help me and help him in seniority at the hotel, and also in our money and hours.
Q. Did he make any statement of what would occur if you did not sign it?

Mr. Gramling: I object to it. He is leading the witness.
The Witness: He said I would be out of work if I did not sign it.

By Mr. Sibley:

Q. Did you sign it?
A. Yes.

Mr. Warren: Your Honor, I move to strike all of the witness' testimony on the ground that it does not prove any allegations of the complaint, and it does not prove any violence and it does not prove any coercion, and it does not prove any intimidation, and it does not even show any improper act.

(Informal discussion thereupon ensued off the record.)

Judge Carroll: The motion is denied.
Mr. Brown: No cross examination.

(Witness excused.)

[fol. 258] Thereupon—FRANK SHORT was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Frank Short.
Q. Where are you employed?
A. Saxony Hotel.
Q. What are your duties there?
A. Lobby porter.
Q. How long have you worked there?
A. Since the 14th of April.

Judge Floyd: This year?
The Witness: Yes.

By Mr. Sibley:

Q. Did you have occasion, about 12:15 a.m., when you were boarding a "M" bus at Lincoln Road and Lenox Avenue?
A. At 12:45.

Q. What day was that, approximately?
A. I got on the bus—the "M" bus at 12:15 Saturday night.
Q. Last Saturday?
A. Last Saturday night.
Q. Go ahead.
[fol. 259] A. Sunday morning, at 12:15—12:45, I got off the bus at Lincoln Road, and that was on Lenox Avenue, corner of Lincoln Road and Lenox Avenue, and as I got off the bus, there were three men.
Q. Where did you get——
A. I got off the bus.
Q. Go on.
A. I got off the bus, and as I got off the bus, there were three men that got off at the same time that I did. One was in front, and two at the rear of the bus.
So when I got off the bus at that corner, I go across the corner, and as I go across the corner, these three men follow me and stop me at the corner.
Q. Where had you taken that bus; where did you get on that bus?
A. I got on the bus across the street from the Saxony Hotel.
Q. Go on.
A. These three men stopped me and one man said, "Hey there, fellow. We are going to take care of you tonight." And I held up my hands and backed off and I said, "Wait a minute fellows. I do not want any trouble with anybody."
So, one fellow said, "You are the scab that got my job, and we are going to take care of you," and the other fellow said, "We are getting hungry," and so I said, "Fellows now, [fol. 260] I don't want to get beat up. I have got $15 here in my pocket and I will give you $5 each if you will not bother me," and one of the fellows turned around and said, "What about it?" And they said, "O. K."
I pulled out $15—three $5 bills—and gave each one of them $5 apiece, and said, "Are you going to let me go," and one of them mentioned the fact that, "You better not report back to work."
So I gave them the $5 bill, each one, and I took off, and they did too.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Did you ever see these men before or after that incident?

A. No, sir.

Q. Did you report this to the police?

A. Yes, sir.

Q. Did you give them a description of the men?

A. Yes, sir.

Q. Are they working at the Saxony?

A. I am working.

Q. Are you working at the Saxony?

A. I am working at the Saxony.

Q. Where did you work?

A. Self employed.

Q. Where?

[fol. 261] A. Richfield, Virginia.

Q. How did you happen to come to Miami?

A. I have been on vacation for about three months.

Q. What were you working at as a self employed individual?

A. Retail grocery store.

Q. You have been here about three months?

A. Yes.

Q. How did you happen to start work at the Saxony?

A. My money was getting low, so I was seeking employment, and I noticed the ad in the paper.

Q. You saw the ad in the paper?

A. Yes.

Q. Do you have a police card?

A. Yes, sir.

Q. When did you get it?

A. As soon as they---they accepted my application and they told me the first thing I had to do was get a police card.

Q. You do not know who these three men were, do you?

A. No, sir.

Q. Did you see these three men get on the bus where you got on?

A. No, sir; these three men were on the bus.

[fol. 262] Q. They were on when you got on?
A. Yes.
Q. They were on before you got on?
A. Yes, sir.

Mr. Brown: That is all.
Mr. Sibley: Come down.

(Witness excused.)

Thereupon—PATRICIA FITZGERALD was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Patricia Fitzgerald.
Q. Where are you employed?
A. Saxony Hotel.
Q. How long have you been employed there?
A. Four years.
Q. What is your position there?
A. Waitress in the Noshery.
Q. Were you employed there at the time the picket line was put up?
A. Yes.
Q. Do you recall what occurred after you finished work on the night of April 13th?
[fol. 263] A. Yes.
Q. Was that after the picket line was put there?
A. Yes, sir.
Q. Will you tell the Court what occurred?
A. We were coming out from work to go home, and this friend of mine was going to drive us all off, and while I—one of the little boys that worked in the kitchen went to grab me. That was Willie.
Q. Was Willie on strike then?
A. He was wearing a sign.
Q. Wearing a sign. Go ahead.

A. And he went to grab me, and this friend of mine stepped between us and told him to keep walking; he said, "That is all right. We will get her when you are not with her."

Q. What?

A. "We will get her when you are not with her."

Q. Since that time, have you been annoyed by—who was with you at that time.

A. The kids that work, and Al Barlow.

Q. Who was it that stepped between you?

A. Al Barlow.

Q. And have you been annoyed at any time since that time?

A. Well, telephone calls at home.

[fol. 264] Q. You get telephone calls at home?

A. I did not until I——

Q. What?

A. Until I stopped the phone.

Q. You cut the phone off?

A. At the switchboard. They call early in the morning and insist on talking to me, and when the operator puts the call through, I would answer and they would hang up.

Q. How many times a night would you get calls like that?

A. Three or four every morning.

Q. You say, "morning." What time would they be?

A. I get off work at 2:00 o'clock, and I sleep during the night, so this would be 9:00 or 10:00 o'clock in the morning.

Mr. Warren: I move to strike this testimony about getting telephone calls and then hanging up. That is a widespread, frequent, and almost universal occurrence.

(Informal discussion off the record.)

Judge Carroll: Motion denied.

By Mr. Sibley:

Q. Did you get these telephone calls before the picket line was thrown up?

A. No, sir.

Q. That just occurred after the picket line was thrown up?

A. Yes.

[fol. 265] Q. What did you do with the phone?

A. I live in a hotel where there is a switchboard, and they do not put any calls through to my apartment.

Mr. Sibley: That is all.

Cross examination.

By Mr. Brown:

Q. Have you been working every day since the picketing started?

A. Yes.

Q. You never had any trouble since then in going or leaving?

A. They cannot get me in a cab.

Q. You never had any difficulty at all?

A. No.

Q. Nobody has annoyed you?

A. No; only with telephone calls.

Mr. Brown: That is all.

(Witness excused.)

Mr. Warren: May it please your Honor, it was indicated, I believe, that we might recess at 9:30. What is the Court's attitude to proceed to a later hour?

Judge Carroll: We had not intended to go too long.

Mr. Sibley: Your Honor, may I suggest that we take a recess at this time? Outside of putting some of the hotel [fol. 266] owners on to establish no negotiations, I do not think it will be over one or two witnesses. Outside of that, I ought to conclude my testimony within a half hour.

Mr. Gramling: If he is going to put on some of those hotel owners, we are not going to be through in a half hour. I have been waiting for them. There is going to be some cross examination.

Mr. Sibley: I will put them on now, but I do not know——

(Discussion off the record.)

Judge Carroll: How long do you think it will take you to finish your witnesses?

Mr. Sibley: Not over 45 minutes.

Judge Carroll: If we take a short recess, do you think you can finish by 10:30 with your presentation of your evidence?

Mr. Sibley: It will be a strain.

Judge Carroll: You said 45 minutes.

Mr. Sibley: I meant in the morning.

Judge Carroll: We will take a recess for five minutes.

(Thereupon a short recess was taken after which the following proceedings were had.)

The Clerk: The court will come to order.

[fol. 267] Judge Carroll: We have decided to recess this case without going any further tonight. We will resume at 8:30 o'clock in the morning.

(Thereupon the hearing was adjourned to Saturday, April 30, 1955, at 8:30 o'clock a.m., at the same place.)

[fol. 268]

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT IN AND FOR DADE COUNTY, FLORIDA.

IN CHANCERY

No. 178554-D

[Title omitted]

Miami, Florida,
Saturday, April 30, 1955.

The above-entitled cause came on for further hearing before the Hon. Charles A. Carroll, Division D; Hon. Grady L. Crawford, Division F; and Hon. Robert L. Floyd, Division J, Judges of the above-styled Court, at the Courthouse, Miami, Florida, on Saturday, April 30, 1955, at 8:30 o'clock A. M., pursuant to adjournment on Friday, April 29, 1955.

[fol. 269] Judge Carroll: Are you ready to proceed?

Mr. Sibley: Yes.

Judge Carroll: Go right ahead.

Mr. Sibley: Mr. McIntyre, will you take the stand, please?

Mr. Gramling: Just a moment, please, if your Honor, please, I wonder if perhaps, Judge George E. Holt could be contacted this morning to clarify that which was mystifying, and that is the status of two of these cases.

In one of them the testimony has been extensive and exhaustive, and the Chancellor currently in charge of it has not heard nor seen the witnesses.

Could we, perhaps, clarify that on the off chance that His Honor might be at home this morning?

Judge Carroll: Well, I do not see how you can do that unless he was here, and you could explain the situation to him. I think though, of what was said yesterday, both sides were going to have something to say about it. The court is not open for those purposes on Saturday, so we will just have to accept the situation the way it is, and proceed and take that up later.

Mr. Warren: Does Your Honor suppose we could adjust this situation, if counsel for the plaintiff would reconsider and stipulate?

Judge Carroll: I do not see any necessity to go into it again. If counsel want to do that, it might be voluntary, otherwise we will leave it like it was.

Mr. Sibley: Let the record clearly show that I will not stipulate. I made it plain yesterday, last night, and make it [fol. 270] plain again.

I might state into the record, I resent counsel's efforts to embarrass me with one member of the Court.

Mr. Warren: I apologize.

Judge Carroll: I do not consider it embarrassment. There has been an effort to get the matter straightened out, which is somewhat unusual, and I think counsel is entitled to express their views on it, but I think the Court has also indicated that we will go ahead, just as it is.

Mr. Warren: I apologize.

Thereupon—RALPH MCINTYRE was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. State your name.
A. Ralph McIntyre.
Q. Where are you employed?
A. Monte Carlo Hotel.
Q. How long have you been employed there?
A. Since the 16th of July last year.
Q. What is your capacity?
A. Manager.
Q. Was a picket line thrown up and is there a picket line up at the Monte Carlo at the present time?
A. There is one at the present time that was thrown up on the morning of—April 13th, at 6:00 o'clock in the morning.
[fol. 271] Q. Prior to April 13th, or prior to the time that the picket line was thrown up at your hotel, were you invited, or was the management of your hotel invited to enter into negotiations with Local Union 255 with reference to labor conditions and wages and hours or conditions of employment of your employees of the union representing itself to be the agency to negotiate for a majority of your employees?
A. No, sir.
Q. A picket line was thrown up without any effort having been made to negotiate with management of your hotel?
A. Yes, sir.
Q. What has been the effect of that picket line at your hotel?
A. Well, we have lost a lot of business on account of it. We have had quite a few cancellations. In fact, I have about four hundred rooms right here in my folio that were cancelled due—or between three hundred fifty and four hundred rooms—that were cancelled due to the picket line being thrown up.

Mr. Gramling: I move to strike the last—due to the picket line, unless he can fortify that with some facts.
Mr. Sibley: I will fortify it if you will give me a chance.
Judge Carroll: Denied.

[fol. 272] By Mr. Sibley:

Q. Was that a convention?

A. Yes, it was a convention.

Q. What was the convention?

A. American Federation, International Brotherhood of Papermakers.

Q. They cancelled because a picket line was thrown up there; is that correct?

A. As of last Saturday, yes, sir. It was cancelled as of last Saturday.

Q. Has it materially crippled your operations there?

A. Yes, sir. When the picket line was thrown up, I had three employees in the hotel.

Q. Did you observe the picket line as soon as it was put up?

A. No, sir. It was about a quarter of seven before I got—before I was down at the hotel then.

Q. Approximately what time was the picket line thrown up?

A. The night people told me it was put up at 6:00 o'clock in the morning.

Q. When you arrived, were some of your employees in the picket line?

A. Yes, sir.

Q. Marching up and down with banners?

A. Yes.

Q. What does the banner say?

[fol. 273] A. It says, "This hotel refuses to negotiate"—I do not know the exact words. That is the heading of it, in big letters. The bottom of it reads, "Local 255" or something to that effect. I do not know the exact wording of it.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Would you repeat your name?

A. Ralph McIntyre.

Q. Mr. McIntyre, you say that there were no negotiations at all with your hotel?

A. No, sir.

Q. Do you know Mr. Ed Miller?

A. Yes.

Q. Did you ever talk to him about a contract at the Monte Carlo?

A. No, sir.

Q. Do you know whether anybody connected with the Monte Carlo ever did?

A. I could not say. I did not, since I have been there, sir. I have been there since the 16th of July last year when the hotel—Mr. Hankoff sold the hotel. I was appointed manager of the hotel.

Q. As a matter of fact, last fall, was there not extensive negotiations with the Monte Carlo and the International Union of Hotel and Restaurant Employees with regard to the possibility of a contract?

[fol. 274] A. Not through me.

Q. But through some other officials of the hotel?

A. No, sir; not as I know of.

Q. You are sure of that?

A. I am positive of that.

Q. Weren't there negotiations over a period of weeks with the Monte Carlo?

A. Not to my knowledge.

Q. You never heard of it?

A. No.

Q. In any way whatsoever?

A. No.

Q. Is your hotel a member of the Miami Beach Hotel Owners' Association?

A. Yes, we are.

Q. Did you hear of Mr. Herman's conversation with the representative of the Association with regard to negotiations?

A. I read in the newspaper—I saw a copy of a letter in the newspaper. I saw it in the Union paper, I believe, first, a copy of the letter that Mr. Herman sent to the Hotel Association.

Q. Well then, you do know there was an effort made to negotiate with the Association?

Mr. Sibley: I object to that.
Judge Carroll: Overruled; he can answer it.

[fol. 275] By Mr. Brown:

Q. You do not know if there was an effort made to negotiate with the Association, of which your hotel is a member?

A. Through Mr. McKaskill, yes; through the newspaper, the union newspaper that was distributed throughout the hotel.

Q. Was your hotel willing to negotiate with the union?

A. I am not in a position to negotiate, sir. I am only the manager. I do not have anything to say regarding the policy of the hotel, or as union negotiations go.

Q. Well then, it would not have done any good to negotiate with you then?

A. No, sir.

Q. Who would it have done good to negotiate with?

A. My boss is Mr. Ben Klein.

Q. Where is he located?

A. He lives at the Shelborne Hotel.

Q. Can you state, as a matter of your own knowledge, whether or not there have ever been any negotiations between your boss and this union?

A. Not to my knowledge; no, sir.

Q. You do not know whether there have or whether there have not been?

A. No, sir; neither way.

[fol. 276] Q. Is your boss in the courtroom today?

A. I did not see him this morning; he was here last night but I have not seen him this morning. I understand he is going to be here.

Q. Are you familiar with the petition that was filed in this case, in behalf of the Monte Carlo Hotel suit against the union?

A. I signed it. I read it.

Q. In that petition, you state that the union does not represent any of your employees.

A. To my knowledge, some of the people do belong to the union—some of them have been there five or six years—some of the employees in the hotel.

Q. Why did you swear to a falsehood? Why did you say in your petition, we do not represent any of your employees?

A. Most of the employees.

Judge Carroll: Just a moment. Are you referring to the allegations in the Bill of Complaint?

Mr. Brown: Yes.

Judge Carroll: We will take notice of the fact that they are drawn by attorneys, and it is just a waste of time to try to pin down a witness to the pleading allegations.

By Mr. Brown:

Q. Within your knowledge, a substantial number of employees are members of the union; isn't that correct?

[fol. 277] A. Most of the people that I know belong to the union, belong to it—have been members of the union for years of No. 133. I believe it is over in Miami, to my knowledge—I did not know of any employees belonging to Union No. 255. Some of the waiters, I understand, have been with the Union fifteen or twenty years. They were in the hotel. They were employed four to six years.

Q. Have you observed the picketing at the Monte Carlo?

A. Yes, sir.

Q. Do you live at the Monte Carlo?

A. No, sir.

Q. So you come and leave each day?

A. Every day; sometimes twice a day.

Q. Has the picketing been peaceful?

A. It has, yes, sir, in front of the Monte Carlo Hotel.

Mr. Brown: That is all.

Redirect examination.

By Mr. Sibley:

Q. Have you observed any improper conduct away from the Monte Carlo Hotel? In front of it?

Mr. Gramling: He might have observed improper conduct in Homestead. I object to that.

By Mr. Sibley:

Q. Had you observed any improper conduct away from the Monte Carlo Hotel, in front of the Monte Carlo or [fol. 278] adjacent to it?

Mr. Gramling: I object again, unless he identifies the word or defines the word, "adjacent".

Mr. Sibley: I will.

Mr. Gramling: We heard of stuff as far as Coloredtown, in Miami, that he made out to appear adjacent.

Mr. Sibley: I will. May he answer the question?

Judge Carroll: Overruled.

By Mr. Sibley:

Q. Answer the question.

A. There was some difficulty over in a parking lot across the street from the Monte Carlo Hotel. I think the Sherry Frontenac Hotel owns part of the parking lot—the public parking lot.

Q. How far are you from the Sherry Frontenac?

A. Next door.

Q. The Sherry Frontenac——

Mr. Sibley: That is all.

Mr. Brown: That is all.

(Witness excused.)

Thereupon—Louis Kenin was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

[fol. 279] Direct examination.

By Mr. Sibley:

Q. State your name.

A. Louis Kenin.

Q. Where do you reside?

A. On Miami Beach.

Q. What is your occupation or profession?

A. I am the president of the operating company of the Hotel Algiers.

Q. The Algiers.

A. That is right.

Q. Mr. Kenin—is there a picket line in front of your hotel?

A. Yes, there is.

Q. When was it placed there?

A. On the morning of the 21st.

Q. Did you receive any telephone calls or have any conversations with Mr. Herman, representing Local 255, prior to the time the picket line was thrown up?

A. During the morning of the 15th, I received a call from a man who said he was Mr. Herman; that he wanted to make an appointment with me for that day to talk things over.

I told him I could not do anything without Mr. Levinson being present, and Mr. Levinson was due in town on that very same day, but that I did not know at what time he would be in.

The next thing I know he said something there being [fol. 280] some dissatisfaction among the employees, and if anything happened, it would be our fault, and that was the end of our conversation.

Q. That is the only communication that you have had from Local 255 before this picket line was thrown up?

A. Yes, that is the only thing.

Q. What has been the result of the picket line in your hotel?

A. As a result, we have had to shut down our dining room, shut down our catering department, shut down our general operation, which curtailed—our coffee shop, which is only in partial operation,—we have had a general reduction throughout the hotel.

Mr. Sibley: That is all.

Cross examination.

By Mr. Brown:

Q. When you notified Mr. Herman that you could not negotiate without Mr. Levinson, did you ever call Mr. Herman back, or did Mr. Levinson, when he was available?

A. No, I did not.

Q. Why?

A. I thought Mr. Herman would call back to arrange for another appointment when it pleased him.

Q. Well, did Mr. Levinson—he was to come in town, was he not?

A. That is right.

Q. When he did come in town, you did not notify Mr. Herman?

A. I did tell him he was due in that very day.

Q. Mr. Herman fully informed you that unless there [fol. 281] were negotiations, there would be some kind of work stoppage?

A. He did not put it exactly that way.

Q. You got the gist of his talk?

A. Yes.

Q. And in spite of that advance notice, on the 15th of April, you let six days go by when Mr. Levenson was available, and made no effort to stop this work stoppage, did you?

A. No. I did not feel that—it was not up to—that it was for Mr. Herman to make his next move for the appointment. He was the man who asked for an appointment—just as I asked for an appointment elsewhere, if it cannot be granted, and I make the next step again to get another appointment.

Q. You thought it was a matter of protocol as to who should make the next step—you were willing to take the risk of a work stoppage rather than make the first move?

A. I did not see any risk of a work stoppage there.

Q. Now, you have a large—rather, you had a large wedding scheduled for the Algiers, did you not, in this period between the 15th and 21st?

A. There probably was one.

Q. About the 20th, was it not? Was there not a large wedding affair scheduled?

A. There were several affairs through that period.

[fol. 282] Q. As a matter of fact, didn't you know, through published statements issued by the Union, that the work stoppage at your hotel had been delayed so that this wedding could be held without interference, and without any discomfort for the employers?

A. I did not see any such statements.

Q. You did not know that that appeared in the press?

A. I did not see it.

Q. You did not see it?

A. No.

Q. Did you tell Mr. Levenson of your conversation with Mr. Herman?

A. I did.

Q. What did he say to you then?

A. Just wait until Mr. Herman calls again.

Q. Did he say he was willing to negotiate with Mr. Herman?

A. We did not discuss it. We did not know just what Mr. Herman wanted.

Q. I will make that clear to you. Will you tell the Court your conversation with Mr. Levenson with regard to Mr. Herman's call. as nearly as you can recall that conversation?

A. It was very brief. I just related that Mr. Herman [fol. 283] had called and that we would just sit by until we hear further.

Q. Did Mr. Levenson, in any way, indicate to you whether or not he was willing to negotiate with the Union for the Algiers?

A. No. There was no indication.

Q. Do you know what his attitude is today?

A. No.

Q. There is no attitude on this subject at all?

A. Not right now.

Q. Do you know what it would take to produce a determination of this question as to whether your hotel would negotiate?

A. I do not.

Q. Do you live in the hotel, Mr. Kenin?

A. No.

Q. You come and go each day, then?

A. That is right.

Q. So, you have been able to observe the picketing each day as you arrive and leave?

A. Yes.

Q. It was peaceful?

A. On the whole, yes.
Q. Beg pardon?
A. On the whole.

Mr. Brown: That is all.

[fol. 284] Redirect examination.

By Mr. Sibley:

Q. Let me ask you just one other question. Since the picketing started, are there any of your employees now living in the hotel?
A. Yes.
Q. How many rooms do you have occupied by employees?
A. They range from half a dozen up to a dozen, and some nights they have been more than that.
Q. Was that so prior to the picket line?
A. No, sir.

Mr. Sibley: That is all.
Mr. Brown: No further questions.
Mr. Sibley: Come down.

(Witness excused.)

Thereupon—Ralph E. Snider was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Ralph E. Snider.
Q. Where do you reside?
A. At the present time, the Sea Isle Hotel.
[fol. 285] Q. What is your connection with the Sea Isle?
A. I am the President and General Manager of the Sea Isle Hotel.
Q. Is there a picket line in front of the Sea Isle Hotel?
A. Yes, there is.

Q. When was it placed there?

A. Three o'clock on the afternoon of April 22nd.

Q. When the picket line was thrown up, were your employees in the picket line?

A. Some of them; yes.

Q. At the time it was thrown up?

A. The original picket line had some of our employees that were not on that shift.

Q. You received a telegram from Mr. David Herman in reference to negotiating with Local 255; is that correct?

A. That is right.

Q. Do you recall the exact date?

A. I do not recall the date that I received the telegram.

Q. After you received the telegram, did you have a conference with Mr. Herman?

A. After I received the telegram, well, I have had several conferences with Mr. Herman. I do not remember whether I had one about that particular telegram. Well, may I [fol. 286] answer that again? I had conferences with Mr. Herman—that is correct.

I told Mr. Herman—I told him I sent that telegram to my attorney, Mr. Sibley, and authorized him to answer that telegram and make an appointment with Mr. Herman to negotiate for the Sea Isle Hotel.

Q. Did you send for the letter that I wrote to Mr. Herman and have it delivered?

A. Mr. Herman called me after I told him that I had this—I had authorized you to send a letter, and called me the following morning and told me the letter had not been received, and he would like to have that letter that day.

I called Mr. Sibley's office and told him that I was—I wanted that letter delivered to Mr. Herman on that day, and made arrangements for it to be picked up at his office and delivered it in person to Mr. Herman.

Q. I tender you the letter and ask you—a copy of the letter which is attached to your complaint—and ask you if that appears to be the letter that was delivered to Mr. Herman?

A. That is a copy of a letter that was delivered to Mr. Herman.

Mr. Sibley: We tender in evidence a copy of the letter and ask that the one attached to the Bill of Complaint be marked as an exhibit in this cause.

[fol. 287] Judge Carroll: Any objection?

Mr. Brown: No.

Judge Carroll: Mark it.

(The document just referred to was thereupon marked Plaintiff's Exhibit No. 9.)

By Mr. Sibley:

Q. Now, you have had a number of conferences with Mr. Herman since this date of April 15th, have you not, Mr. Snider?

A. Yes, I have.

Q. He called you a number of times on the telephone?

A. That is correct.

Q. You and Mr. Herman are not at all unfriendly, are you?

A. Not at all.

Q. Did you receive a call from him this morning?

A. I received a call from him this morning.

Q. What did Mr. Herman say?

A. Mr. Herman asked me how things were going, and suggested that if this decision were to go against the hotels, the possibility that it might—that it might be a very good time for the hotels to attempt to negotiate with Mr. Herman and get a more favorable deal now than we might get if the decision for injunction had gone against the hotels.

[fol. 288] Q. What else did he say, Mr. Snider?

A. He said, that now that Judge Cannon is out of the thing, he did not think that we would have as good a chance to win.

Mr. Brown: I move that be stricken, your Honor.

Mr. Sibley: I insist, your Honor, that it is very pertinent, under the circumstances. Just a minute. Let me——

Mr. Brown: I made a motion. I would like to be heard.

Mr. Sibley: Go ahead, if you have something to say.

Judge Carroll: On what ground?

Mr. Brown: I think it is highly immaterial to the issues here in any way—first of all, the events described have

occurred after the filing of the Bill and amended Bill, and they are not within the province of the pleadings.

Secondly, it is immaterial and obviously an attempt to discredit the Court and to cast reflection upon the Court, which should not be permitted.

It is completely irrelevant to the issues at hand as to [fol. 289] whether or not there is a violent picketing in the case.

There is a further ground for objection, I might say—there is one further ground that is quite fundamental, and that is that Courts have always encouraged efforts to conciliate and negotiate disputes; and conversations in the course of attempts to settle disputes have always been ruled out of evidence, otherwise parties could never get together, if their conversations in the course of an attempt to negotiate a settlement could then be brought into Court and used; so I object and say to your Honor that this precedent to overturn the time-honored tradition of encouraging settlements should not be disturbed.

Judge Carroll: The motion is denied.

By Mr. Sibley:

Q. You were not present, sir, at the meeting between Mr. Herman and myself, were you?

A. I was not.

Q. After that meeting, you understood the meeting was to take place at 2 o'clock on April 22nd?

A. That is right.

Q. How long after 2 o'clock, on April 22nd, was it before the picket line hit your hotel?

A. Exactly 3 o'clock on April 22nd.

[fol. 290] Mr. Sibley: At this time, we would like to tender in evidence the transcript of the conversations that occurred between Mr. Herman and myself, which were reported by the present Court Reporter, Mr. Edward Schwartz.

We ask that it be marked in evidence as Plaintiff's Exhibit No. 10.

Judge Carroll: Reported where?

Mr. Sibley: Taken at my office, at which time the Court Reporter was present and took the conversations between Mr. Herman and myself.

Judge Carroll: Do I understand there was a conference, say, at which the Reporter was present and both parties to the conference, and realized it was being taken down?

Mr. Sibley: That is explained, sir, by the report, itself.

Judge Carroll: Is there any objection to that?

Mr. Brown: No objection.

(The document just referred to was thereupon marked Plaintiff's Exhibit No. 10.)

Judge Carroll: Mr. Sibley, how long is this conversation?

Mr. Sibley: It consists of six or seven pages, I guess—[fol. 291] five and one-half pages.

Judge Carroll: Let me see it after you mark it.

By Mr. Sibley:

Q. At three o'clock, did you attempt to stop your employees walking out of the hotel?

A. Yes; I did.

Q. That is at three o'clock on April 22nd?

A. That is right.

Q. What did you do?

A. I asked the employees as they—somebody ran into the hotel and yelled, "The pickets are here—get off the job," and this is just before the shift change, which is about four o'clock.

I tried to get them all into a room to have a meeting with them and explain to them that the Sea Isle hotel had offered to negotiate with the Union, and Mr. Sibley had just concluded a conference with Mr. Herman, offering to negotiate with the Union for the Sea Isle Hotel, because I had so instructed him to do, and that this attempt to take these people off of their jobs was not for their benefit, because the Sea Isle was willing and ready to negotiate with anybody that Mr. Herman could show us that he had the authority to represent.

My appeal to the employees was effective in some instances, and some of them that had reason and sat there [fol. 292] and listened to me and went back to their work.

Many of them said, "It is too late; you should have spoken to us before," and away they went.

Q. Now, the picket line that you say was thrown up, some of your employees were in that picket line?

A. That is correct.

Q. Has this picket line hurt your hotel?

A. It certainly has.

Q. Has Mr. Herman called you and asked you whether or not you would—whether you were being hurt by this picket line?

A. He called me and asked me how things were going, and I told him that they were going terrible—without kidding. I was being hurt very badly.

Q. At the first hearing here on Thursday afternoon, did you have several witnesses here to testify for the Sea Isle?

A. I had some witnesses here to testify for the Sea Isle; yes.

Q. In reference to violence?

A. In reference to intimidation and violence.

Mr. Gramling: I object to that question, asking him about—does he have some witnesses, and how are they going to testify. I move it be stricken.

[fol. 293] Mr. Sibley: I will produce the statements of the witnesses, and then I will show what happened to the witnesses.

Judge Carroll: The motion will be granted as to the witness' statement of what the witnesses who were here would have testified to.

Mr. Sibley: All right, sir.

Judge Carroll: It is left in as to his statement that there were some witnesses here from his hotel.

By Mr. Sibley:

Q. When you came back to the session last night, where were your witnesses?

A. There were three of them that disappeared and left their employment at the hotel, and they did not show up for work, and two of them refused to come back here.

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Mr. Snider, what is your home address?

A. I am presently living at the Sea Isle Hotel and the rest of the year I live in Boston, Massachusetts.

Q. Where is your legal address?

A. 275 Freemont Street, Boston, Massachusetts.

Q. Do you use a leather suit case or a carpet type suit case?

A. I travel without baggage.

[fol. 294] Q. Who else has a substantial interest in the Sea Isle?

A. Mr. Stanley Weinberg.

Q. What is his residence?

A. Montreal.

Q. And who else?

A. That is all.

Q. Just you and Mr. Weinberg?

A. That is right.

Q. Is Mr. Weinberg in town?

A. No, sir; he is in Canada.

Q. You have full authority to negotiate for the Sea Isle?

A. I have full authority to negotiate for the Sea Isle.

Q. How long have you been the President and the General Manager of the Sea Isle?

A. Since the 10th day of December, 1954.

Q. Mr. Snider, as a matter of fact, this is not the first labor difficulty the Sea Isle has had in recent months, has it?

A. This is the only labor difficulty that I know that the Sea Isle has had—if this is a labor difficulty for the Sea Isle.

Q. Now, directing your attention to January of this year, [fol. 295] didn't the Sea Isle Hotel have a great deal of difficulty with its employees over the question of whether or not the Sea Isle could search each employee and search the locker of each employee; was there not a good deal of publicity and publicized difficulty at the Sea Isle on that issue?

A. There was no difficulty at the Sea Isle Hotel on that issue. If you will allow me to elaborate——

Q. Yes.

A. I will tell you more about the answer.

Q. Please do.

A. I operate other hotels in the United States that have Union contracts, and we have a form of employment application for the——

Mr. Sibley: I object to that, your Honor, upon the ground it is not in cross of——

Judge Carroll: I think it is outside the scope of the direct examination. We are not concerned with past employment practices and problems.

Mr. Brown: In January of this year, your Honor.

Judge Carroll: Or today, for that matter.

By Mr. Brown:

Q. Now, Mr. Snider, you say you have had considerable conversations with Mr. Herman, have you not?

[fol. 296] A. That is right.

Q. Have you at any time indicated to Mr. Herman that you are willing to negotiate with him?

A. Yes. I have always indicated to Mr. Herman that the Sea Isle Hotel has been willing to negotiate.

Q. And have you, in fact, negotiated?

A. I have not negotiated.

Q. Why not?

A. I have turned the matter of negotiation over to an attorney who represents me in regard to the negotiations.

Q. Well, has he negotiated with Mr. Herman?

A. I believe he has attempted to. He has told——

Q. Is that the transcript of the conference between Mr. Sibley and Mr. Herman—the negotiations that were attempted?

A. I know that my attorney told me—that I authorized him to negotiate for the Sea Isle, and he told me that he tried to negotiate for the Sea Isle.

Q. Was there any discussion between Mr. Herman of the wages, hours, working conditions?

A. I was not there.

Q. You do not know?

A. I do not know.

Q. And Mr. Sibley did not tell you?

[fol. 297] A. He told me some things; yes.

Q. What did he tell you?

A. He told me that he attempted to negotiate with Mr. Herman; that he told Mr. Herman that he represented the Sea Isle, and I had told Mr. Herman that Mr. Sibley had represented—was authorized to negotiate for the Sea Isle, and he asked Mr. Sibley—he asked Mr. Herman who he represented, and asked Mr. Herman to tell him who he had the right to negotiate for, and if he showed him or told him who he had the right to negotiate for, he was prepared to negotiate with him for the people who he represented.

Q. Then what happened?

A. Then Mr. Herman refused to give him that information and the meeting broke up.

Q. Was it your position, then, that the Sea Isle does not negotiate with the Union involved here because you do not know the people that the Union represents?

A. That is correct.

Q. Didn't you tell us, yourself, that you were present when the work stoppage occurred and the people walked out?

A. That is right.

Q. And you knew they belonged to the Union?

A. I do not, and I did not. Most of the people walked out because they were afraid to stay—not—the expression [fol. 298] of the people who walked out, in most instances, was that they were walking because they were afraid to stay; not because they wanted to walk.

Q. Now, you described, on direct examination, your conversation with a number of people, in which you implored them to stay in the hotel: there were no pickets present at that time in the hotel?

A. There were pickets outside of the hotel at the time I talked to these people.

Q. Now, get back to my question. Were there any pickets inside the hotel while you were talking to your employees?

A. No.

Q. You were the only representative of management, and there was no representative of the Union present, was there?

A. There were many people who were employees at that time of the Sea Isle Hotel.

Q. Let us get back to the question. When you were talking to your employees, Mr. Herman was not present and no pickets were present?

A. That is right.

Q. You were there alone in this conversation?

A. I was not alone. I had a lot of people.

[fol. 299] Q. Your own people?

A. And people who were working at the Sea Isle.

Q. But this all took place inside the hotel?

A. That is right.

Q. And there was nobody from the Union standing over there with a club to boss these people to come out of the hotel, was there?

A. There were people from the Union.

Q. Please answer the question.

A. Union members exhorting these people to leave their jobs. They ran through the hotel up on the floor, shouting, "The pickets are here—leave your jobs."

Q. That is right. Now, we will get back to the question. At the time you were talking to the people, there was not anybody around there, excepting a representative of management and the employees, isn't that right?

A. That is correct.

Q. Thank you. We covered that point. And you said to these people, "Stay in the hotel," did you not?

A. I said to these people, "Do not leave your jobs; this is not a strike."

Q. And you also said, you were willing to negotiate, did you not?

A. I have always said that I am willing to negotiate.

[fol. 300] Q. And then some of the employees said, "You should have spoken to us before; you should have negotiated before"; didn't they? A. No.

Q. Isn't that what you said?

A. Wait a minute. The employees said I should have spoken to them before, and explained the fact that they had the right to work; that nobody was forced to leave a job because of a Union dispute.

Q. You told them then?

A. I certainly did, and many of them said——

Q. And those who did not stay, you think they could have been Union members, perhaps?

A. They may or may not have been. I believe many people walked out of the Sea Isle who were not Union members, or who had not signified their intention to become Union members and stayed there.

Q. Well, it all boils down to this: You did not negotiate with the Union right now because you have a doubt as to whether the Union represents the majority of the employees?

A. That is correct.

Q. Are you willing to submit that issue to an Impartial Master appointed by this Court?

[fol. 301] Mr. Sibley: I object to that, upon the ground it calls for a——

Judge Carroll: Objection sustained.

By Mr. Brown:

Q. Are you willing to submit this issue to anybody?

Mr. Sibley: I object to that.

Judge Carroll: Sustained.

By Mr. Brown:

Q. What efforts, if any, has your hotel made to determine whether your employees belong to the Union and are willing to be represented by this Union?

A. At the present time, it is impossible to make any efforts. We have a tremendous transient problem with help and the help comes in to work and the next day or two days later they do not show up, and you look for them and they say that they are afraid to come to work. There is no way of determining what their interest is.

Mr. Brown: I move that the answer be stricken as unresponsive to the question.

Judge Carroll: Granted.

By Mr. Brown:

Q. Now, Mr. Snider, as a matter of fact, didn't you take —didn't you go through the hotel and ask your employees whether or not they belonged to the Union?

A. I did not go through the hotel and ask them whether [fol. 302] they belong to the Union.

Q. By means of a written ballot?

A. I did not go through the hotel by means of a written ballot to ask them whether they were members of the Union.

Q. What did you do in that regard with a written ballot?

A. We had a piece of paper circulated individually to each employee that said, "I do want the hotel union so and so", or, "Hotel Restaurant and Employees Union to have the right to negotiate for me," or, "I do not want",—and we said to the employees, we would like a free expression from you as to whether or not you want to be represented by this Union, and we said, "You may sign this one way or the other, or you may have the right not to sign it," and you have a free choice.

Q. Did you or do you have those ballots yet, sir?

A. I have some of them, yes. I have all that are signed.

Q. What about the ones that were not signed?

A. I have them, too.

Q. Are they in Court here?

A. No.

Q. How did the vote come out—signed and unsigned— [fol. 303] the total?

A. About 80 per cent of them did not want the hotel—the Union to negotiate for them.

Q. And how many ballots; what was the total of the ballots?

A. I think we had—there were about 60 or 70 people who signed these papers. They were not ballots. They were just an expression of their wish.

Q. I just referred to them as ballots.

A. I cannot refer to them as ballots, because they were not. They were just an expression on their part.

Q. 60 or 70 signed them?

A. That is right.

Q. And what was the vote on the 60 or 70?

A. I do not know the exact figure. I'd say about 80 per cent of them did not want the Union to represent them.

Q. On the unsigned ballots, what was the vote there?

A. There were some that wrote, "No comment," and some wrote, they wanted the Union to represent them, and some said, "No comment."

Q. Will you give the approximate percentage of those [fol. 304] which were unsigned?

A. The unsigned—of the unsigned, there were 85 per cent of the people would have, "No comment." We did not go to everybody in the hotel. They were not there. But we went to as many as we could get that would sign. I have every single one of them, and they are available if the attorneys want them to be there.

Q. How many ballots were passed out in all?

A. They were not passed out. They were given to individual people for an expression of their position.

Q. How many ballots were given to the individual people for an expression of their opinion?

A. I only know how many we got back.

Q. How many did you get back?

A. I told you, around 60 or 70.

Q. Signed and unsigned?

A. That is right.

Q. How many employees are there in the Sea Isle?

A. There were, up to about 180.

Q. So, out of 180 employees, you only got back 60 ballots, signed and unsigned?

A. That is right. But it was a cross-section of the employees that we had working.

Q. And about 85 per cent of them all said, "No comment." [fol. 305] A. No. I said, 80 per cent of those that we have did not want the Union to represent them.

Judge Carroll: I think one of your answers was a little confusing. He asked you how many were handed back without being signed.

The Witness: Of those that I have back, only about 5 per cent or less had no signature on them. They just said, "No comment."

By Mr. Brown:

Q. You only got about 60 ballots in all back, including those signed?

A. We got no ballots back. We just asked these people——

Q. Let us not bandy words.

A. You are.

Q. Pieces of paper?

A. That is better.

Q. You got about 60 pieces of paper back in all, signed and unsigned?

A. That is right.

Q. Out of 180 that were passed out?

A. There were not 180 passed out. I said that there were 180 employees. We did not pass them out to every employee. They are not on the shift at the same time.

[fol. 306] Q. Mr. Snider, did you have an appointment with Mr. Ed Miller, the General President of the hotel and restaurant employees in January?

A. I did not have an appointment with Mr. Ed Miller.

Q. Did your attorney have such an appointment?

A. My attorney did not have an appointment with Mr. Ed Miller.

Q. Who did you meet with, in January?

A. I did not arrange a meeting with anybody.

Q. I did not ask you about "arrange". You like to be real technical.

A. I am.

Q. So be real technical about the truth and tell us who you met with?

A. I am technical about the truth.

Q. Answer the question, then.

A. I met with nobody except a Mr. Al Berlin and a Mr. Smith came to the Sea Isle Hotel one day, and asked to see me, and at that time I did not know Mr. Al Berlin and who Mr. Smith were.

Q. What occurred?

A. They came into my office, and I said, "Good morning, gentlemen, who are you?"

Q. You do not call that having a meeting with anybody?

[fol. 307] A. They did not request an appointment. They just walked in.

Q. That was not a meeting. Tell us what happened at this thing.

Judge Carroll: May I suggest, Mr. Brown, that you not quibble and argue with the witness. Just ask him for in-

formation. He may know it, and let us have him get on with this thing.

Mr. Brown: Yes, sir.

By Mr. Brown:

Q. Tell us what happened.

A. They came to my office and said that they wanted to negotiate for the employees of the hotel, with a union, and I told them—I told them that I was not in a position at that time to negotiated with them, and I had just come to town and they would have to—that I was not opposed to talking to them, but that would have to remain for a later date.

He wanted to know if I would be willing to see Mr. Ed Miller there, and I said that I had no objection to seeing Mr. Ed Miller, and I have been commuting back and forth to Boston and I said, and I said some other time, and I said if Mr. Ed Miller wanted to see me I was available, and we talked socially for a half an hour, and that was the end of the conversation.

Q. Were there any other meetings?

[fol. 308] A. No, sir.

Q. You had some meetings with Mr. Herman?

A. Yes, sir.

Q. And you are willing to negotiate with the union if it can establish that it has a majority?

A. I have always been willing to negotiate with the union, At no time have I refused to negotiate with the union, and that is my—and it is signed—those signs that walk in front of my hotel do not represent the truth.

Q. Did you see the ad that was placed in the newspaper by the union just three days ago?

A. Yes, sir.

Q. You saw that ad that the union was willing to remove the pickets if you would negotiate with the union.

Mr. Sibley: I object to that on the grounds it is not in cross on anything that was brought out on direct examination.

Judge Carroll: Sustained.

By Mr. Brown:

Q. Do you live in the hotel, sir?
A. Yes.
Q. You come and go each day?
A. Sometimes I come and go, but I live in the hotel.
Q. You have observed the picketing at the Sea Isle?
A. I have.
Q. Is it violent?
[fol. 309] A. It is not violent.

Mr. Brown: That is all.

Redirect examination.

By Mr. Sibley:

Q. I just have two questions. One is—you had informed me of the results of this cross section of sampling that you had taken of your employees prior to the time that I met with Mr. Herman; is that right?
A. That is right.
Q. Have you received any threats, yourself?
A. I have received a threat from a former employee of the Sea Isle, that if he does not get his job back, he will kill me.

Mr. Warren: Your Honor, we move to trike that on the ground that that does not relate to picketing, wages, or any of the matters in controversy. That is an individual, personal threat from that man directly against Mr. Snider, which we regret and deplore. I do not believe you can hang it on the union and the pickets.

By Mr. Sibley:

Q. Did he say anything about the strike?
A. Yes. He said, "Mr. Snider, if I do not get my job back, I will have to kill you. Please settle the strike."
Q. What did you do about that?
[fol. 310] A. I called up the FBI, and they have the letter, and the envelope is in their possession.

Mr. Brown: Your Honor, I move to strike the question and answer on redirect examination because they have gone

beyond what was brought out on cross examination. I think that is contrary to the rules of practice in this jurisdiction.

Judge Carroll: The motion is denied. The witness is considered recalled.

Mr. Sibley: You may inquire.

Mr. Brown: No further examination.

Mr. Sibley: Come down.

(Witness excused.)

Thereupon—RICHARD DOLAN was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.

A. Richard J. Dolan.

Q. Where do you reside?

A. Biscayne Park.

Q. What is your position?

A. General Manager of the Roney-Plaza Hotel.

Q. On or about April 13th or 14th, did you receive a [fol. 311] telegram at the hotel addressed to Mr. Meyer Schine from Mr. Herman?

A. At approximately 9:30 that morning, I was advised by one of our front office people that a telegram had been received addressed to Mr. Schine.

Q. Mr. Dolan, did you speak to Mr. Schine during that day in reference to the telegram?

A. Mr. Schine was leaving for New York, with a stopover in Washington, on a 9:00 o'clock flight out of Palm Beach that morning, and I did not know where he was stopping in Washington and I left a call at the Mayflower, a Statler hotel, that in case he stopped off, to contact me.

I did not hear from him until approximately 7:00 o'clock that night, at which time I advised him of the contents of the telegram.

Q. Did you receive any instructions in reference to it?

A. Mr. Schine advised me to turn the matter over to Mr. Sibley.

Q. Now, is the communication which you turned—the wire in which you turned the telegram over to me pursuant to Mr. Schine's direction?

A. That is.

Q. Will you refresh your recollection from it and tell me what day the matter was turned over to me?

[fol. 312] A. The matter was turned over to you on April 13, on Wednesday.

Q. That is the date you mailed out your communication to me?

A. That is correct.

Q. Is this a copy of the telegram that came to Mr. Schine?

A. That is a facsimile copy, yes.

Mr. Sibley: We tender in evidence the telegram identified by the witness, and ask that it be marked in evidence as Plaintiff's Exhibit No. 11.

Mr. Brown: I object.

Mr. Sibley: If he objects, I will withdraw it.

Judge Crawford: What is the ground for the objection?

Mr. Brown: The ground for the objection is, it seems to be a self-serving declaration. Pardon me. I would like to read it. We withdraw our objection. I thought this was another document. I think it is one by Mr. Herman. I thought it was his telegram to Mr. Schine.

The Witness: I did not send a telegram to Mr. Schine.

(The document referred to was thereupon marked Plaintiff's Exhibit No. 11, the telegram.)

[fol. 313] By Mr. Sibley:

Q. Did you on the 14th—when was the picket line at your hotel thrown up?

A. At 6:00 o'clock on the morning of the 15th.

Q. Did you on the morning of the 14th, receive a telephone, or have a telephone conversation, with Mr. Herman—a telephone communication?

A. I was contacted by Mr. Meyer Levy, who was a captain for No. 133 and advised that Mr. Herman wanted to speak to me. I called Mr. Herman on——

Q. What day was that?

A. That was a Thursday, the 14th. I called Mr. Herman on your——

Q. Go ahead. You called him on my——

A. I called Mr. Herman to tell him that you were to represent us in all labor negotiations. We mis-connected on a couple of calls, and finally he called me at 5:30 that afternoon, at which time I advised him on the phone that you were to represent our interests in any negotiations.

Q. Did you see Mr. Herman again that evening?

A. At approximately 11:00 o'clock that night I received a call from the front desk that Mr. Herman was in the lobby to see me. I went down to the lobby to talk to Mr. Herman and see what he had in mind.

He was there, accompanied by four of his fellow union men and he seemed to be trying to determine if Mr. Schine [fol. 314] had received the telegram, and what our action was going to be.

I again referred him to our conversation of that afternoon, that I was not empowered to negotiate and that you were the man that he should see.

Q. When you say, "You", you are speaking of——

A. I am speaking of Mr. Sibley, at 605 Lincoln Road.

Q. Now, that was at 11:00 o'clock at night on the 14th?

A. That is correct.

Q. When did the pickets picket your hotel?

A. At about five minutes of 6:00 the following morning.

Q. Is this a photograph of the signs being carried by the pickets, are these photographs of the pickets at your hotel?

A. That is a photograph; yes.

Q. And does the sign, carried by the pickets at your hotel——

A. This is the sign they have been carrying.

Q. Do you recognize either of those as former employees?

A. No.

Mr. Sibley: We tender in evidence the photograph iden- [fol. 315] tified by the witness, and ask that it be marked in evidence as Plaintiff's Exhibit No. 12.

Mr. Brown: No objection.

(Thereupon, the photograph referred to was marked Plaintiff's Exhibit No. 12.)

By Mr. Sibley:

Q. What has been the effect of this picket line at your hotel?

A. The picket line has resulted in a very severe disruption of normal operation and business. We were forced to close down our cabana restaurant for approximately three days and since we have been operating with a limited menu, with approximately twenty percent of the items that were formerly offered.

We closed down our Bamboo Room for approximately forty-eight hours, the first time the room has been closed since the hotel has been open on a year around basis.

Since that time we have been operating with a limited staff, and have not realized normal business, which we normally do in that room.

Our dining room has been operating with a limited staff, and again we have been affected in our business operation.

We lost a convention group which was scheduled for approximately two weeks, I believe it was, in early June or July, and we were also forced to cancel out a couple of [fol. 316] parties that were scheduled in the hotel.

We have no way of determining just what results the picketing in other cities has resulted in our business, but reservations and requests for reservations have not been up to normal.

Q. Now, you say picketing in other cities. What do you mean by that?

A. By that I mean that the picket line has been established in front of our office in New York City at 445 Park Avenue, stating that the hotel is on strike.

Q. Do you know whether or not this is a picture of the picket line in front of your office in New York or not?

A. This is the picket in front of the office at 445 Park Avenue.

Q. You recognize the location?

A. Yes, sir.

Mr. Sibley: We again tender in evidence the picture identified by the witness, and ask that it be marked in evidence as Plaintiff's Exhibit No. 13.

Mr. Brown: We renew our objections. We made an earlier objection to this, as being outside the jurisdiction of this State.

Judge Carroll: Objection overruled. It will be filed in evidence.

Are there two pictures?

[fol. 317] Mr. Sibley: Two pictures, I believe——

Judge Carroll: You are offering them both?

Mr. Sibley: I am offering all of them.

Judge Carroll: Is there any distinction between them as to the objection.

Mr. Brown: I have not seen the others, yet.

Judge Carroll: Well, on the back there is the affidavit of somebody.

Mr. Brown: May we see them, Mr. Sibley, or are they to be held a secret from us?

Mr. Sibley: After I get through.

Judge Carroll: Patience, Mr. Brown.

Mr. Sibley: Let me get through. You get so excited. In this offer I was trying—you think I was trying to sneak in something.

Mr. Brown: I would never suggest that, Mr. Sibley. You have a reputation in this community which is outstanding and I never insinuated such a thing.

Judge Carroll: Let us see what you are marking, Mr. Clerk.

Mr. Brown: Your Honor, I would like to enlarge on the objection. Since the pictures show that the picketing is by Local No. 6 of New York, and not by this local at all, [fol. 318] this is apparently another union entirely.

Judge Carroll: The ruling has been made.

(The three photographs just referred to were thereupon marked Plaintiff's Exhibits Nos. 13-A, 13-B, and 13-C, respectively.)

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. Mr. Dolan, do you know whether or not there have been any negotiations between the representatives of the Roney-Plaza Hotel and Mr. Herman, or any other representative of the union?

A. To the best of my knowledge, there has not been.

Q. Do you know whether there were any negotiations with a representative of the Schine union?

A. To the best of my knowledge, there has not been.

Q. Do you know whether there were any negotiations with a representative of the Schine Enterprises, or the owning company of the Roney-Plaza in Los Angeles with reference to the Roney-Plaza?

Mr. Sibley: I object to that on the ground it is immaterial and irrelevant and not in cross of anything that was brought out on direct examination.

Mr. Brown: I said that is the locale of the negotiations with reference to the Roney-Plaza.

[fol. 319] Mr. Sibley: Between the defendant and No. 255; is that the question?

Mr. Brown: Between the union, yes, No. 255 and the Roney-Plaza.

Mr. Sibley: I withdraw my objection.

The Witness: I have no knowledge of any negotiations.

By Mr. Brown:

Q. Did you ever hear of that?

A. No, sir.

Q. Mr. Dolan, what are your duties?

A. General Manager.

Q. As such, do you handle personnel problems at the hotel?

A. At the present time, we have a personnel manager.

Q. And he works under you?

A. That is correct.

Q. Now, Mr. Dolan, have you observed the picketing in front of the Roney-Plaza?

A. I certainly have.

Q. Has it been violent?

A. It has not been violent, but it has been of an intimidating vein.

Q. Just describe what you have seen?

A. I have seen men with pads jotting down license num-
[fol. 320] bers, and I have seen men with——

Q. Do you know who those men are?

A. They are picket captains. I can identify them, yes. They are picket captains.

Q. Describe the picketing itself. Is it being done—are the men walking up and down in front of the hotel?

A. The men are walking up and down in front of the hotel; yes.

Q. Are they molesting patrons who enter the hotel? By the way, where are they walking?

A. They are walking on Collins Avenue.

Q. They are walking out in the street?

A. That is right.

Q. Which is not in front of the hotel at all, is it?

A. No.

Q. The entrance is off the sidewalk?

A. We had the pickets removed from the entrance there.

Q. So, they are not even picketing at the entrance right now?

A. They cannot picket the entrance.

Q. I asked you whether they are or not?

A. They are not.

[fol. 321] Mr. Brown: That is all.

Redirect examination.

By Mr. Sibley:

Q. They were picketing your entrance when they first threw up the picket line?

A. They were picketing the entrance.

Q. And an injunction was granted by Judge Cannon against them?

A. That is right.

Q. In front of your hotel it is private property; is it not?

A. The front of the hotel is private property, and I had so advised Mr. Smith at 6 p.m., or rather, 6 o'clock on the morning of the 15th when he threw up the picket line.

Mr. Smith informed me that regardless of the fact that it was private property, he still intended to put his pickets there.

Q. Did he put them there?

A. He put them there; yes.

Q. You say there was a vein of intimidation, and in the middle of the answer you were interrupted. You said you saw picket captains taking down the names of people who came to the hotel, and what else did you observe in that?

A. I had seen them jotting down the license numbers, and we have had them in our parking lot taking license [fol. 322] numbers off employees' cars, and we have had to house—keep the people in the hotel, because of this practice by the Union.

Mr. Brown: I object to that as being unresponsive to the question, and totally unconcerned with what he saw on the picket line—housing them in the hotel.

Judge Carroll: Overruled.

By Mr. Sibley:

Q. Did you see them taking pictures or photographs?

Mr. Brown: Objection as leading.

Judge Carroll: Sustained.

Mr. Sibley: I withdraw the photograph part.

The Witness: We have been forced to——

Judge Carroll: Just a minute. There is no question pending.

By Mr. Sibley:

Q. Now, at the present time, do you house any of your employees?

A. At the present time we are housing approximately 35 employees.

Q. Did you do that prior to the picket line being put up?

A. It has not been our practice.

Mr. Sibley: That is all.
Judge Floyd: Do you have any recross examination?
[fol. 323] Mr. Brown: No recross examination, sir.
Mr. Sibley: Come down.

(Witness excused.)

Mr. Sibley: Mr. Lansburgh.

Thereupon—MORRIS LANSBURGH was called as a witness on behalf of the Plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Morris Lansburgh.

Judge Carroll: Are there other witnesses?
Mr. Sibley: One more witness. I am going back to the Monte Carlo to pick up the owner, in view of the cross-examination of Mr. McIntyre, and that is all.
Judge Carroll: Go ahead.

By Mr. Sibley:

Q. What hotels are you connected with?
A. I am connected with the Sherry Frontenac and the Sans Souci.
Q. When was the picket line thrown up at the Sherry Frontenac?
[fol. 324] A. On April 16th, at 4 p.m.
Q. When was it thrown up at the Sans Souci?
A. I understand at 6 a.m., on April 17th.
Q. When did you see it there?
A. About 7 o'clock on April 17th.
Q. Is this a picture of the picket in front of your hotel, which one is that of?
A. That is in front of the Sans Souci.
Q. And that is a true picture of the picket line?
A. That is right.

Q. At times?
A. It is, sir.

Mr. Sibley: We offer in evidence this picture which was identified by the witness, and ask that it be marked Plaintiff's Exhibit No. 14.

Mr. Brown: What is the time and the date given on this picture, sir?

Mr. Sibley: Do you recall, as well as you can, the day that picture was made?

The Witness: Approximately——

By Mr. Sibley:

Q. Go ahead.
A. Approximately April 20th, during the afternoon.

Mr. Brown: What time in the afternoon?

The Witness: To my best recollection, between the hours [fol. 325] of 11:30 and 2 and 3.

Mr. Brown: No objection.

Judge Carroll: Mark it.

(The picture referred to was thereupon marked Plaintiff's exhibit No. 14.)

By Mr. Sibley:

Q. I believe you said that this picture was taken in front of the Sans Souci?
A. That is right.
Q. Is this a picture of the pickets in front of one of your hotels?
A. Yes, sir. This is the picture of the pickets in front of the Sherry Frontenac.
Q. Do you recall approximately when that picture was taken?
A. This picture was made the day after the strike—April 17th.
Q. Do you recall what time?
A. In the morning, sir.
Q. And that is a picture in front of the—in front of the Sherry Frontenac Hotel?
A. Yes.

Mr. Sibley: We tender in evidence a picture identified by the witness, and ask that it be marked Plaintiff's Exhibit No. 15.

Mr. Brown: No objection.

[fol. 326] (The picture just referred to was thereupon marked Plaintiff's Exhibit No. 15.)

Judge Floyd: What is your capacity?

The Witness: I am one of the joint-venturers—one of the partners in the lease of the Sherry Frontenac, and the Secretary of the Corporation that owns the Sans Souci.

By Mr. Sibley:

Q. Mr. Lansburgh, did you receive a communication from Mr. Herman before the picket line was thrown up at the Sherry Frontenac?

A. Yes, I did, sir.

Q. What time of day did you receive that communication, and what type of communication was it?

A. On April 16th, 1955, Mr. Herman telephoned me and told me that he would like to negotiate with us. I told him that it was Saturday afternoon, rather late, and I would be willing and very glad to call one of my partners, who happened to be in Chicago at that time, at our reservation office.

Q. Who is your partner in Chicago?

A. He was in Chicago—Dr. Robert S. Levy.

Q. All right; go ahead.

A. And I would call Mr. Herman back. Mr. Herman said, "Do you think I am going to wait around while you get instructions?" He said, "You call me back before 3:45."

[fol. 327] Q. What time did he call you?

A. He called me at 3:30.

Q. All right, go ahead.

A. He said, "Call me back before 3:45," and I said, "Well, you are not giving me much time on a Saturday afternoon. You try my partner in 15 minutes, in Chicago," and I gave him his telephone number, "State 2-3084," and Mr. Herman said, "No; you go ahead. I have a meeting at 3:45, and be sure you call me back by then."

Q. This is 3:30?

A. This was at 3:30.

Q. Go ahead.

A. I tried to contact Dr. Levy in Chicago, and I was not successful. They do not work on Saturday afternoons. And at 10 minutes of 4, I was called from the Sherry Frontenac that there were pickets in front of the hotel.

Q. Did you go to the Sherry Frontenac?

A. I did, sir.

Q. Were there pickets in front of the hotel?

A. There were pickets in front of the hotel, and there were two organizers whom I knew who they were, across the street on our parking lot, screaming to the employees who were due to come in at 4 o'clock, "Do not go in there or we will break your heads."

Q. Where were they located, these two organizers that [fol. 328] were screaming?

A. On my parking lot, across the street.

Q. Do you know the name of one of them?

A. One man's name is Mischel.

Q. He is one of the defendants in this case, Henry Mischel?

A. Yes, sir.

Q. And did you go over to speak to Mr. Mischel?

A. I certainly did.

Q. He was on your parking lot?

A. That is right.

Q. What was he screaming to your shift when they were coming in?

A. As the people were getting off the bus, right in front—right next to the parking lot, he was screaming to them, "Do not go to work. We will crack your skulls if you go in there."

I went over to Mr. Mischel with my manager, and I told him to stop inciting a riot, and to get off my parking lot, and he told me, if I was big enough, to make him; to go ahead.

We had a bit of an argument and I told him to get off and he said he would not, and finally an officer came over and the officer told him that it was private property; that he would have to get off, and he said—he still said he would [fol. 329] not.

So then the officer said to me, "Should I arrest him," and I said, "I am not particularly anxious to have him arrested. Just tell him to get off this parking lot."

Again, the officer told him to get off and he refused, and so the officer had no alternative but to take him away and arrest him.

Q. That was Mr. Mischel?

A. That was Mr. Mischel, and the rest of them left immediately thereafter.

Q. Now, has the picket line injured your hotel?

A. It certainly has.

Mr. Brown: I object. It is a conclusion.

Judge Carroll: Overruled.

By Mr. Sibley:

Q. What has been the effect?

A. We have closed our main dining room in one hotel, and our bar sales are off very much. The employees are afraid to come to work.

Mr. Brown: I object, to that, your Honor. There is no testimony to that effect.

The Witness: There has been——

Judge Carroll: Just a moment. The conclusion just stated is stricken.

By Mr. Sibley:

Q. Go Ahead.

A. The employees are afraid to come——

Q. The Court struck that out.

A. There have been fights in front of our hotel.

[fol. 330] Mr. Brown: I object to that. There is no testimony to that effect.

Mr. Sibley: Oh, yes; a lot of it.

Judge Carroll: Let the witness answer. If counsel finds something objectionable you may move to strike it, but hold your motions until the witness' answers are completed. You throw him off and disconcert him, and the Court loses the benefit of his possible testimony.

The Witness: There has been cancellations of reservations. We had one group cancel out completely that was to arrive on May 1. In fact, it was a 67-room group, and our sales are off, very much.

Mr. Sibley: You may inquire.

Mr. Brown: I move to strike that part of his testimony in which he refers to a fight in front of the hotel, because he has given no testimony, himself, that he saw any fights in front of the hotel. He just made a blanket statement.

Judge Carroll: Granted.

(Witness excused.)

Thereupon—BENJAMIN G. KLINE was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

[fol. 331] Direct examination.

By Mr. Sibley:

Q. Please state your name.

A. Benjamin G. Kline.

Q. What is your occupation or your connection with the Monte Carlo?

A. I am president of the Monte Carlo Hotel.

Q. Have you ever received any communication from Mr. David Herman in reference to negotiations of any contract of any kind?

A. Never.

Q. Regarding labor conditions at the Monte Carlo Hotel?

A. Never.

Q. Have you got with you the only contact or communication you ever received from Mr. Herman?

A. Yes.

Q. Do you have it with you?

A. Yes.

Q. Will you produce it, please? Are you a director of The Miami Beach Hotel Association?

A. Yes, sir.

Mr. Sibley: We tender in evidence the communication identified by the witness as plaintiff's Exhibit No. 16.

Mr. Brown: No objection.

Judge Carroll: Received.

[fol. 332] Mr. Sibley: We ask that it be marked as Plaintiff's Exhibit No. 16 in evidence.

(The document referred was thereupon marked Plaintiff's Exhibit No. 16.)

Mr. Sibley: You may inquire.

Cross examination.

By Mr. Brown:

Q. After receiving this letter, did you make any attempt to contact Mr. Herman or any other representative of the union regarding the negotiations.

A. No, sir.

Mr. Brown: That is all.

Mr. Sibley: Come down.

(Witness excused.)

Thereupon—MURRAY FRIEDMAN, was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your full name.

A. Murray Friedman.

Q. What is your connection with the Sorrento Hotel?

A. Treasurer of the Sorrento Hotel.

[fol. 333] Q. Have you or member of management, so far as you know, received any communication from Mr. Herman seeking to negotiate a contract on behalf of your employees, concerning labor conditions?

A. No written communication.

Q. Have you had any telephone communications?
A. I believe my associate had a call from Mr. Herman.
Q. Who is that?
A. Mr. Resnick.
Q. You never had any?
A. No, I did not.

Mr. Sibley: You may inquire.
Mr. Brown: No cross examination.
Mr. Sibley: Come down.

(Witness excused.)

Thereupon—BERNARD RESNICK, was called as a witness on behalf of the plaintiff, and having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Sibley:

Q. Please state your name.
A. Bernard Resnick.
Q. What is your connection with the Sorrento Hotel? [fol. 334] A. I am vice president and secretary of the Sorrento Hotel Corporation.
Q. Did you have a telephone conversation with Mr. David Herman in reference to seeking to negotiate on behalf of the employees by him?
A. I had a phone call from Mr. Herman in which he stated that he represented the employees of the Sorrento Hotel, and I, in turn, told him to feel free to call Mr. Sibley, our attorney, and discuss it with him.
He mentioned that he has his own attorneys, and we requested him to call our attorney, and I repeated that he should feel free to call him, and that was the end of the conversation.
Q. You told him that I had been authorized to negotiate on behalf of your hotel?
A. I did, sir.

Mr. Sibley: That is all.

Cross examination.

By Mr. Brown:

Q. Does your company employ an attorney named Solomon in New York City?

A. No, sir.

Q. Is there such an attorney representing your company in any way, in New York, by that name?

A. Absolutely not.

Q. Are there other officers of your company?

[fol. 335] A. Yes.

Q. Who are they?

A. Mr. Seymour Dressner.

Q. Where is he?

A. He is a resident of Miami Beach, and associated with the hotel.

Q. Who else?

A. Mr. Murray Friendman.

Q. And who else?

A. Myself, and a Murray Druce.

Q. Where is he located?

A. In New York, sir.

Q. Do you know Mr. Solomon, the attorney in New York?

A. I, personally, do not know of Mr. Solomon.

Q. Do you know of him?

A. No.

Mr. Brown: I cannot establish that he does not know——

Judge Floyd: There may be 25,000 attorneys named Solomon in New York.

Judge Carroll: Are you through?

Mr. Brown: That is all.

Re-direct examination.

By Mr. Sibley:

Q. There was a picket line thrown up in front of your hotel?

[fol. 336] A. Yes, there was.

Q. What effect has that had on your hotel causing a loss?

A. It has affected every phase of the hotel operation—the dining room, bar, and the rooms, and the actual operation, and the laundry room and kitchen and every phase of the hotel.

Q. Is it crippled?

A. It did cripple us on the opening day of the walk-out; yes, sir.

Q. You are not back to normal now, are you?

A. Absolutely not.

Mr. Sibley: That is all.

Mr. Brown: No further cross examination.

Mr. Sibley: Come down.

(Witness excused.)

PLAINTIFF RESTS

Mr. Sibley: Plaintiff rests, your Honor.

Judge Carroll: We will have a recess for about ten minutes.

(Thereupon a ten minute recess was taken, after which the following proceedings were had:)

(At this point, counsel thereupon argued to the Court.)